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YEARBOOK

OF SECURITY SECTOR REFORM IN SERBIA

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Impresum

Yearbook of Security Sector Reform in Serbia

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INTRODUCTION

About the Project

This publication is the result of two years of intensive work by the research staff of the Centre of Civil-Military Relations (CCMR), and its associates. It contains the collated results and findings of our research project "Mapping and Monitoring of Security Sector Reform in Serbia". The project began in 2006 and was completed by the end of 2008. The target audience of this publication are all those interested in the theory and practice of security sector reform (SSR). It should be of particular interest for students of national and international security studies and to those professionals working in the defence and security sector in Serbia, who aim to deepen their knowledge and understanding of the reform of the country's security sector.

In this book the concept of security sector reform is understood holistically, as a collection of policies and processes contributing to improved efficiency and effectiveness in the provision of human and state security within the framework of democratic governance. Consequently, the wide-ranging analytical framework encapsulates not only those state institutions tasked with the use of force and those responsible for control and oversight and supervision of the security sector, but also private organisations providing security and surveillance services. The project covers the period from 2000 to 2008. However, year 2006 is chosen as a starting point to measure and assess progress in the reform of security sector in Serbia. This is due to the fact that just after the proclamation of independence of Montenegro and the adoption of its own Constitution (2006), Serbia fully took over the jurisdiction over the security sector and its actors.

Furthermore, it is worth mentioning that this is the first research project of this kind to apply a conceptually holistic, theoretically well-founded and methodologically systematic approach to the analysis of the current state of security sector reform in Serbia and of any progress made in this field.

The Political and Security Context

The democratic reforms that began in Serbia on October 5th 2000 have not affected all areas of Serbian society and government in equal measure. Though some aspects of government, such as the economic and financial spheres, have to some extent been successfully reformed, the security sector is still burdened with the legacy of the 1990s and has been unable to find solutions to newly arisen security challenges. The assassination of Serbia's first democratic Prime Minister in March 2003 - which members of the state security forces were involved in - and the inability of subsequent governments to achieve full coopera-

tion with the International Criminal Tribunal in Hague, are just two of the many unresolved problems that still affect the pace and reach of the reform of Serbia's security sector. Additionally, in the absence of blanket policy documents, such as a National Security Strategy and a Defence Strategy, Serbia cannot be said to have a clear security policy. Furthermore, it is not yet known when, and how, the 2007 Resolution of the National Assembly (NA) on the "Protection of the Sovereignty, Territorial Integrity and Constitutional Order of the Republic of Serbia" on military neutrality will be implemented. It is no wonder, therefore, that the situation came to a head in the form of a very public "conceptual disagreement" between the Ministry of Defence (MoD) and the Army High Command. This exchange culminated in December 2008 when the Chief of General Staff publicly proclaimed that Serbia had not yet defined its defence policy.

Problems such as these, unfortunately, also exist outside the defence sector. For example, the number of government bodies entitled to apply police-like and/or other special powers has risen significantly over the last few years, directly affecting citizens' basic human rights and freedoms. As a result, in addition to those actors traditionally so empowered, such as the security forces, police and judiciary, these powers are now also available to the tax police, the customs service and to the service for the prevention of money laundering.[1] Various procedures are in place to regulate the use of such powers, and those institutions which are now enabled to apply these powers are subject to different degrees of parliamentary, judicial and public control and oversight. The state of the security sector is also reflected in the fact that there is as yet no legislation regulating the status of private security companies, despite the fact that an estimated 50,000 people are employed in this sector - more, in other words, than in the military or the police.[2]

Motivation for the Project

Security sector reform has been one of the declared aims of every democratic government in Serbia since 2000. Significant financial resources and political energy have been invested in the reform of a sector that has long been more part of the problem than part of the solution to security-related issues in Serbia. Many positive changes have taken place but much still remains to be done. However, until now no attempt has been made to systematically review the achievements to date and the challenges to be overcome in the process of security sector reform in Serbia. The purpose of this publication is to compensate

[1] Miroslav Hadžić and Predrag Petrović, eds., *Democratic Oversight over the Use of Special Powers* (Belgrade: Centre for Civil-Military Relations, 2008), 7.

[2] Sonja Stojanovic, ed. *Private Security Companies: A friend or a foe?* (Belgrade: Centre for Civil-Military Relations, 2008), 51-58.

for these short-comings.

As already mentioned above, this publication is the product of two years' work by the research staff of the CCMR and its associates, under the research project, "Mapping and Monitoring of the Security Sector in Serbia". With this aim in mind, the first part of the project was designed to develop the methodology required for a comprehensive mapping and monitoring of security sector reform in Serbia. Once devised, the methodology was, with the necessary adjustments, used to analyse and gain systematic insight into the current state, extent of and impediments to security sector reform in Serbia. In this way the Centre aims to afford additional operative support to further reform of this sector and to the integration of Serbian institutions into the Euro-Atlantic security community. The findings presented in this publication should, in the years to come, facilitate the monitoring and evaluation of both the process of security sector reform and the level of Serbia's security cooperation and integration.

By publishing the findings of its research the Centre aims to raise public awareness of these issues and to ease the flow of security-related information between political decision-makers, security professionals and independent experts. This should lead to the betterment of national security policy - with policy-making based on academic research - and a democratic security culture. The research team hopes that the applied methodology will arouse the interest of both the domestic and international academic communities and, in turn, contribute to the advancement of the field of security studies.

Project Evolution

During 2007, the first year of the project, the research team concentrated on developing the theoretical and methodological framework with which the research would be carried out. The greatest challenge was to determine the techniques and instruments to measure the extent of security sector reform. In attempting to do so the researchers were faced with a series of theoretical and methodological problems and unanswered questions. It was necessary to first determine whether measurement and numeric evaluation of the extent of security sector reform was even possible. If so, what would the measurement relate to? And according to which indicators would it be measured? Would the indicators be universal or would they be specific to the Western Balkan region? These are just some of the many questions we had to deal with during the first phase of the project, but remained relevant throughout the entire project.

Although they were unable to formulate absolute, definitive answers to all of these questions, the research team did determine a set of techniques and instruments to measure the extent of security sector reform. This allowed the researchers to identify three main dimensions of the reform of this sector and its actors which they used afterwards to follow and evaluate progress: (I) dem-

ocratic management of the sector and/or actors; (II) efficiency and (III) effectiveness. At the same time, they chose and defined key indicators for each of these dimensions which allowed them to define a starting point (point zero) from which reform of this sector and/or its actors in Serbia began. In this way, a standard was created and afterwards used to record and measure the changes with the usage of same indicators

During the second year of the project a complex methodological approach, based on the analytical, theoretical and methodological framework developed during the first phase, was applied to the measurement of the extent of security sector reform in Serbia. The first task was to determine who in Serbia is responsible for and authorised to provide security. The analysis then progressed in several directions and on several levels. The first of these was an analysis of the legislative regulation of the security sector. This required an examination of existing constitutional and legislative solutions in the security sector and their compatibility. This examination was concerned with, of course, all the regulations and bylaws available to the public. Special emphasis was placed on the analysis of powers, procedures and instruments for democratic civilian control and public control and oversight of the security sector and its constituents. For this it was necessary to verify whether the aforementioned actors were interlinked or connected in any way, and if so, in what way. The aim was, therefore, to confirm whether or not Serbia had a unified and operational - holistic - national security system. This further required an analysis of the political, conceptual, strategic and doctrinal foundation for the conventional way of thinking about and providing security in Serbia. This analysis was carried out with the existing social, political, economic and security context in mind. On the basis of the information gathered, separate indices were produced for each actor, as well as a unified index for the Serbian security sector as a whole.

By developing the methodology for the periodical monitoring of the process of security sector reform and the Security Sector Reform Index (SSRI), the CCMR has sought to create a unique instrument to measure not only performance, but also the extent of security sector reform. The index identifies the priorities of the reform process, not only at any given moment, but also in relation to the available resources and current requirements. In this way, future annual or biannual publication of the Index will make it possible to appraise the success or failure of political leaders and elites in implementing security sector reform. Also, the resulting public pressure would be focused on priority tasks, as identified by the Index, and would contribute to improved planning and coordination of reforms throughout the security sector. It appeared, however that in this phase of research it was impossible to develop a single unified Index, which would encompass the whole sector and all of its actors. The first difficulty was related to the impossibility of establishing the same indicators and applying the same procedures to record precisely the type, scope, direction, content and range of changes for four different groups of actors: (1) state actors that have

the right to use force; (2) state actors that do not have the right to use force; (3) non-state actors that have the right to use force; (4) non-state actors that do not have the right to use force. Changes could eventually have been made for each dimension, but these could not have been measured in a methodologically robust manner and graded according to the same criteria. Therefore, in this phase the research team decided to develop and implement different indices for each group of actors.

It quickly became clear that, presently, it is not possible to measure the progress of the reforms of each group of actors using the efficiency and effectiveness dimension. This is above all due to the fact that these dimensions have different meanings for different actors, and therefore cannot be measured according to the same criteria. It is also linked to the fact that the information with which to measure the efficiency and effectiveness of the army, police, security services and/or state institutions which use certain police powers were not available to the researchers, especially in the case of the state actors that have the right to use force. Additionally, the research team realised that it lacked specialist and technical knowledge to carry out this project. On top of that neither do professionals, nor their civil commanders, have the necessarily instruments and procedures to evaluate the security capabilities of the state force apparatus. Therefore, progress along these two dimensions was only measured using the indicators for good governance over the whole sector, as well as over the group of actors. Those indices offer a reliable insight into the level of democracy within the security sector in Serbia. In other words, once they are applied, it will be easier to assess the extent to which this sector and its actors operate under democratic civilian control and supervision. The results of the mapping and monitoring project, however incomplete, will be the first systematic knowledge base on security sector reform in Serbia and will facilitate policy development, decision-making, and greater public control and oversight of the security sector, based on continuous, independent and multidisciplinary empirical research.

The next phase of the research project (2009-2011) will unfold in two directions. Firstly, the continued monitoring of the reform process will be followed by the practical application and further development of the instruments and indicators created during the first two phases. Thereafter, the adopted methodology and the SSRI will be applied to the analysis of the rest of the Western Balkans in cooperation with local researchers and think-tanks. The CCMR has, in cooperation with the Geneva Centre for the Democratic Control of Armed Forces (DCAF), already formed a partnership with six research organisations from across the Western Balkan region. This phase of the Mapping and Monitoring Security Sector Reform project will culminate in a comparative quantitative and qualitative analysis of the extent of security sector reform in the regional context, through the publication of a Regional SSR Yearbook.

Secondary Products

In order to maintain a comprehensive record of the process of security sector reform in Serbia, the Centre's research team and their associates have during the course of this project produced a number of secondary papers and analyses. One of these is a complete political chronology of Serbia for the period from 5th October 2000 to the end of 2008. This chronology documents and gives brief summaries of key political events and actors. Similar chronologies have also been produced for all state actors authorised to use force. Other secondary products of the project include bibliographies of relevant publications and lists of significant electronic resources relating to the security sector and its reform in Serbia. The CVs of significant security actors in Serbia have also been drawn up. Key issues and concepts, however, are covered in the Centre's Backgrounder series of publications.

The Research Team

A significant number of researchers, both those working in the CCMR, or rather the Centre's 'Belgrade School of Security Studies', and its international associates, has participated in this endeavour. Roles were assigned according to the respective expertise and personal fields of interest of each of the researchers and associates, and to the requirements of the project. In this sense the results achieved are the work of individual authors and researchers, but they are also the fruits of collaborative labour. Therefore, whilst responsibility for the quality of both analysis and findings lies squarely with the authors themselves, all participants share partial liability for any potential shortcomings. In gathering empirical data, the Centre was aided by governmental institutions which readily completed questionnaires and agreed to be interviewed where necessary.

The Centre hopes to acquire the necessary funds for the annual or biannual publication of a report on the processes and achievements of security sector reform in Serbia. This will enable the Centre to further develop and perfect the concept, the methodological techniques and the Index. Also, the existing partnership between Western Balkan think-tanks, together with the CCMR and the Geneva Centre for Democratic Control of Armed Forces, will apply and adapt this methodology to a similar comparative study on a regional level. Last, but not least, the CCMR wishes to express its deepest gratitude to the Royal Norwegian Government, the Geneva Centre for the Democratic Control of Armed Forces, the Balkan Trust for Democracy and the Fund for an Open Society, whose financial help have made this project possible.

List of Abreviations

AMPL	Administration for the Prevention of Money Laundering
BIA	Security-Information Agency
BiH	Bosnia and Herzegovina
CA	Customs Administration
CC	Criminal Code
CCMR	Centre for Civil-Military Relations
CEN	Customs Enforcement Agency
CESID	Centre for Free Election and Democracy
CFSP	Common Security and Foreign Policy
CHRIS	Network of Human Rights Commitees in Serbia
CSO	Civil Society Organisation
ČSSR	Czechoslovak Socialist Republic
DfPP	Department for People's Protection
DOS	Democratic Opposition of Serbia
DS	Democratic Party
DSS	Democratic Party of Serbia
DSZ	Civil Self-defense
EBCO	European Bureau for Conscientious Objection
ECDL	European Computer Driving Licence
ESDP	European Security and Defence Policy
EU	European Union
FENS	Federation of NGOs of Serbia
FOJ	Financial Intelligence Unit
FOS	Financial Intelligence Service
FRY	Federal Republic of Yugoslavia
FTO	Pysical- technical security
GIGN	Groupe d'Intervention de la Gendarmeri nationale
HDZ	Croatian Democratic Union
IPA	Instrument for Pre-accession Assistance
ISAC Fund	International Security Affairs Centre
JNA	Yugoslav People's Army
JSO	Special Operations Unit
KiM	Kosovo and Metohia
KIPRED	Kosovar Institute for Policy Research and Development
KOS	Counter-Intelligence Service
MoI	Military Intelligence Agency
MoI	Ministry of Interior
MIS	Military Intelligence Service

MoD	Ministry of Defence
MoFA	Ministry of Foreign Affairs
MSA	Military Security Agency
NA	National Assembly of the Republic of Serbia
NATO	North Atlantic Treaty Organisation
NPI	National Plan for Integration
NGO	Non-Governmental Organisation
OSCE	Organisation for Security and Co-operation in Europe
PfP	Partnership for Peace
PLO	People's Liberation Army
PSC	Private Security Company
PTJ	Counter-terrorist Unit
RDB	State Security
RILOs	Regional Inteligence Liaison Offices
RTS	Radio Television of Serbia
SAJ	Special Anti-terrorist Unit
SAS	Special Air Squadron
SBS	Special Boat Squadron
SCC	Serbian Chamber of Commerce
SCG or SMN	State Union of Serbia and Montenegro
SDA	Party of Democratic Action
SDB	State Security Service
SEAL	Sea, Air, Land
SFRY	Socialist Federal Republic of Yugoslavia
SID	Service for Inquiry and Documentation
SPO	Serbian Renewal Movement
SPS	Socialist Party of Serbia
SRS	Serbian Radical Party
SS	Security Service
SSR	Security Sector Reform
SSRI	Security Sector Reform Index
STANAG	Standardisation Agreement
TTFSE	Trade and Transport Facilitation in South East Europe Program
USA	United States of America
UNSC	United Nations Security Council
USSR	Union of Soviet Socialist Republics
VRS	Army of the Republika Srpska
VRSK	Army of the Republika Srpska Krajina
VS	Armed Forces of Serbia
VSS	Supreme Court of Serbia
VSCG	Armed Forces of Serbia and Montenegro
WCO	World Customs Organisation
YUCOM	Lawyers' Committee for Human Rights

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PART ONE

FINDINGS, INDICES AND RECOMMENDATIONS

Summary of Security Sector Reform in Serbia

by Miroslav Hadzic

Over the last eight years (2000-2008) we have seen important and positive changes in the security sector of the Republic of Serbia. Those changes are one of the main products of Serbia's gradual, sometimes laborious, yet ongoing democratization and liberalisation. The local elite and current power-bearers are slowly and gradually taking in the meaning of a broader and deeper concept of security, and intend to use it as a foundation for developing a modern concept of national security. As a result, Serbia has ceased to be a crisis-generator in the region and a potential threat to its immediate neighbours, and countries of the Western Balkans / Southeast Europe. By taking part in international processes of security cooperation, Serbia, with its partners, enhances the achievements of and promotes sustainable national and (sub)regional security.

The Serbian state, at the same time, has ceased to represent a security threat to its citizens. Governmental apparatuses of power have been to a certain extent depoliticised (taken out of political control) and put under the efficient and legitimate control of legal power-bearers. The highest ranking officials from both the military and the police have retired, irrevocably, from the political scene. The initial constitutional and legal framework has been established in order to apply and to help promote further civilian democratic control over the main state actors in the security sector. Some of the independent governmental bodies which have been set up - Ombudsperson, State audit, Commissioner for Information of Public Importance and Personal Data Protection - are now slowly taking over the control and supervision of the state apparatuses of force. At the same time, public transparency has increased when it comes to government work and that of its institutions in the field of security. Besides, public and civil society organization now play a partial role in supervising some of the activities of the state apparatuses of force. The level of respect for human rights in security sector has substantially increased, not just for citizens, but also for the armed forces.

Since the adoption of the new Constitution (of the Republic of Serbia) in 2006, a new political environment has been created for the continuous and accelerated reform of the local security sector. In the Constitution and the subsequent systemic laws, Serbia now has more clearly defined missions, tasks and responsibilities for the army, police and law enforcement agencies. In addition, Serbia now has a clear civil chain of command, and defined responsibilities for the government and responsible Ministries (such as the Ministry of Defence and

the Ministry of Interior). Since the establishment of the National Security Council Serbia has started to create a joint and functional system of national (state) security. This, in return, has helped to link chief political decision-makers with central security practitioners within this system. Conditions have been created for enhanced cooperation and for firmer control by the executive over the state security sector. The Council is at the same time responsible for the joint operations of civil and military intelligence/security services.

The central apparatuses of state force, since the end of the previous regime in Serbia, have been undergoing a process of reorganisation and gradual modernisation. Among the changes, there has been a reduction in the numbers of police and army staff, and a professionalisation of the commanding officers and personnel. As a result, the security forces have begun to adopt a structure better suited to the country's security needs and financial capacity. In parallel, there is an aim to adopt standards and procedures for the interoperability of the Serbian army and for a more successful inclusion of police forces and other state security forces into international cooperation initiatives. For that purpose, and in accordance with the growing belief amongst the political elite that national security is now more endangered by non-military threats, the rapid diversification and specialisation of security forces is now being implemented. The army and the police, nowadays, have a range of specialised and joint operation units primarily trained for anti-terrorist combat, for preventing the proliferation of weapons of mass destruction and for the fight against various forms of organised crime. At the same time, some governmental institutions, for example the customs administration, the tax police, and the Administration for the Prevention of the Money Laundering (AMPL) received partial police powers which they can use in their line of work. With the recent adoption of a set of new laws on the Judiciary and by setting up specialised courts and prosecutor's offices, Serbia has enhanced its capacity for the prosecution and punishment of war criminals and members of organised crime groups.

Summarising all SSR achievements over the last eight years in Serbia, it appears that the first phase/generation of SSR has been more or less successfully completed. However it is also apparent that the government which came into power after the Milosevic era missed an opportunity to radically - by that we mean comprehensively, systematically and with clearly defined aims - reform the security sector which it had inherited, including in particular the state apparatus of force. A partial explanation for this lies in the fact that throughout the whole period Serbia was reforming its security sector in a fairly hostile environment, with opposition both at the national and international levels.

It became evident immediately after 5th October 2000 that international support for the democratisation process in Serbia was fading by the day, and that was inevitably reflected in the field of security sector reform. The failure by the national government of the time to complete the delivery and fulfilment of previously accepted and signed agreements, in particular with regard to the

agreement with the International Tribunal in the Hague, did not help matters. Any achievements in terms of gained foreign support were gradually lost because of the rigid and inconsistent policies towards Serbia by the USA, EU and NATO. By constantly adding to and amending the list of requests and conditions which Serbia had to meet, it was increasingly difficult to follow the path of accession and inclusion into European and Euro-Atlantic integration processes. This thorny situation reached its lowest point when most EU member countries supported and recognised the unilateral and illegal formation of the so-called state of Kosovo on the territory of the Republic of Serbia

All the elements mentioned above in a way fed pre-existing internal debates and helped further increase the gap between political parties and their antagonisms over the future course to be followed in terms of Serbia's foreign policy and security orientation. No wonder then that in this period successive governments in Serbia shifted from complete readiness for the Serbian security sector to take part in European and Euro-Atlantic initiatives to, as Kosovo's declaration of independence became increasingly unavoidable, Serbia's declaration of military neutrality. Therefore, it seems that potential NATO accession has been taken off Serbia's list of priorities for a while to come; current cooperation with the Alliance is limited to the symbolic Partnership for Peace (PfP) framework.

Building on the above, the entire foreign and internal policy of Serbia is geared to fast-track Serbia's EU accession. The present government has chosen to put an emphasis on developing the economical and legal frameworks, in order to make the legislative system compatible with EU standards, whilst the security aspect of this process is limited to meeting all preconditions necessary to get onto the so-called "Schengen white list". It is then no surprise that reform of the national security system is clearly absent from Euro-integration debates in Serbia. This might also be the case because the EU has not yet accepted the full holistic concept of SSR, nor does it apply it in monitoring and assessing the achievements of candidate countries.

An unfavorable international context has helped, amongst other things, to strengthen the debate surrounding the security dilemma. The "state-centric" approach, which focuses on the need for military defence of the Serbian nation, state and territory, is at the heart of national security debates. After the recent events in and around Kosovo, parts of the political elite have indicated, although implicitly, that they are ready, in the name of the preservation of the national territory of Serbia to slow down and even postpone further democratisation. Because of that stance, internal political debates regarding the main security needs and interests of Serbia, and above all about the concept and goals of military reform, have resurfaced. Further professionalisation of the army has thus been put on hold along with any further reduction in personnel. Finally, repercussions of the current global financial crisis on Serbia should also be taken into account.

The limited progress in SSR in Serbia is also the result of specific political environmental and internal factors, including the status of Serbia's relationship with Montenegro, which was maintained in the third Yugoslavia (1992-2003) and more loosely in the State Union of Serbia and Montenegro – SCG (2003-2006). After gaining power in Serbia in 2000 DOS intended to include both member states under its programme of reforms. However, since government officials from Montenegro refused to recognise the legitimacy of the state led by Milosevic, they declined to participate in any joint reforms. Government officials from Montenegro thus refused to take part in the creation and implementation of any mutually planned SSR. From that point in FRY (and later on in SCG) three mutually exclusive, and even occasionally hostile, security systems co-existed: one at the federal level - the army; and another in each of the two member states - the local police forces and intelligence services.

The Government of Montenegro did not want to participate under any circumstances in the restoration of a mutual security area, and was particularly opposed to the creation of any unified or joint (coordinated) security systems. This was emphasised by the fact that a militarised police force and intelligence services constituted key pillars of power which helped preserve absolute power in Montenegro. Even more important was the conviction that the road to independence would be secured by a strong armed police force as a defence against the Serbia and Montenegro Armed Forces. From this point of view, government officials in Montenegro were only interested in a process where the Federal Armed Forces and intelligence services would be firmly controlled by the Supreme Defence Council and the Federal Parliament. This was to prevent any possible intervention by the Federal Army when Montenegro would finally secede from the State Union of Serbia and Montenegro.

During this prolonged period, Serbia and its new government slowed the tempo of reform in the security sector. In turn this led to the loss of 'reform momentum', not just among the public, but also among the members of the state apparatuses of force. The high expectations of extensive reforms that accompanied the fall of the previous regime deflated. A huge amount of time and money which had been allocated to security sector reform was wasted. The short-lived military reform is testimony to that. After the secession of Montenegro, Serbia was once again obliged to reorganise its armed forces, now according to a new set of parameters. The main responsibility lay with Serbia's government officials, and in particular with Vojislav Kostunica, the newly elected President of FRY and one of the DOS leaders who had direct command over the Yugoslav Army. Montenegro did not play any role, simply because any changes in the army structure at the time would have been directly connected with the daily political decisions and intentions of Kostunica himself. In the same way, changes in the police and state security service directly were connected to the daily needs and ideas of the other main component of DOS, initially under the leadership of Zoran Djindjic and later on of his successors.

Difficult and sometimes conflicting tendencies inherent in Serbia's transition period clearly demonstrate that the newly elected government, in the form of DOS and its various subsequent coalitions, was not able to provide suitable solutions to the problems it was facing. This lack of 'good ideas' can be partially explained by the fact that socio-economic and political dynamics at the time were still strongly shaped by the post-authoritarian and post-conflict heritage. Besides, the new government was often required to redefine the status of the state on an *ad hoc* basis in the hope of preserving territorial integrity.

Serbia's protracted way out from the years of authoritarianism and conflict was accompanied by numerous security unknowns and internal risks. Moreover, in the period after Milosevic the new government avoided any political sanctioning of war losses/gains in Serbia, but also any public resposibility for prolonged internal and external abuses by police, army and state security services. At the same time, they avoided radical changes of personnel in the upper echelons of the government apparatus in return, for example, for the non-disclosure of secret files about a vast number of citizens (which remain closed to this day). Further, the government made no attempt to take those secret files out of the jurisdiction of these services and deliver them to the independent governmental body regulating the scope of state security services' work, even though it was bound to do so by the law adopted in 2002. Paradoxically, the leaders of DOS also promoted persons once close to Milosevic to positions where they had responsibility for SSR. In that lies one of the main reasons due to which the later snags in its economic and social development, coupled with political resistances to the transition, permanently threatened to outgrow into internal, but violent conflicts. Throughout this period the process of democratisation was under constant pressure from political instability. The political assassination of Prime Minister Djindjic on 12th March 2003 was a demonstration that hidden parts of the police, military and state secret services were ready to support violent restoration of the old regime through violence.

After the split with Montenegro, Serbia managed formally to bring all inherited state apparatuses of force under its command. From that moment on, the pace and level of change in Serbia's security sector became the sole responsibility of government officials and the ruling parties. This presented Serbia with the chance to restart its SSR from scratch, particularly since the ties to the previous security system of FRY/SCG had been legally and formally discontinued. However, despite the formal change of the state, the social environment and context within which reforms were to be implemented remained largely the same.

If anything, the context of reforms became even more complex, and having regained its statehood, Serbia saw slow, chaotic and undefined reform in the security sector. The Serbian government still faced problems in removing structural and other obstacles on the path to SSR. In addition, it became clear that Serbia lacked the constitutional, conceptual, strategic-doctrinaire and institutional foundations for a clearly defined and planned process of reform of the

security sector. The government of Serbia had almost completely failed to prepare the foundations for reform and hardly any progress was made between the initiation of the strategy for reform in October 2000 under the FRY/SCG and the actual implementation of security reform in Serbia in 2006. An additional reason for this was that the ruling parties of the various coalitions all had originated from DOS. The fact that Milosevic's SPS successors joined the ruling coalition after the 2008 elections did not change the context of reform.

It is clear that all these missed opportunities (but also positive changes), in terms of SSR were the result of differing and antagonistic internal political processes and tensions within Serbia. Since October 2000 the pace of SSR has been pulled in different directions according to interests of the ruling political parties. These divergent interests were just another expression of the lack of basic consensus between the actors, about the ways and means to achieving the democratic transformation of Serbia. The result was a constant battle between the actors on the strategy and methods of reform on the one hand, and expenses and costs of transition on the other.

However, the constant political disagreements and in-fighting between the DOS factions and their partners around the process of SSR could not mask the fact that all parties lacked a clear understanding about the concept of national security. Nor did they have (or want to have) an operational plan for the future reform of the security sector. Once in power they found themselves in a reactive, rather than proactive, position, and were sometimes forced to perform changes with little time or political vision, or by responding to frequent security incidents. The interests of the ruling parties and coalitions in terms of SSR were primarily linked to obtaining party and/or personal control over the state apparatus of force. As a result, the directions and goals of reform changed according to the pace of power shifts in the country. At the same time, in line with the demands of daily political and party needs, frequent personnel changes took place in the police, army and state security services, and related ministries. Consequently, these apparatuses of force remained permanent clients to the ruling political parties. In summary, there was no significant difference in the ways in which the various political groups intervened in the security sector during their time in power and they all obtained similar results.

The strongest evidence for this is the fact that none of the ruling political parties in the past eight years managed to develop and then implement a relatively well-defined concept and policy of national security. Moreover, they failed to arouse public interest in security-related matters. As a result, the debate on reform revolved around party and/or ideological interpretations of national security. This in turn created a monopoly for the ruling parties over the creation and implementation of national security policy. But the ruling parties could not even agree over what the basic national interests were, and consequently how to protect them. This is why Serbia still does not have an official National Security Strategy. It is not even stipulated in the new constitution. Meanwhile,

Serbia has not even yet adopted the National Defence Strategy or the Military Doctrine, even though they are legally bound to do so by the Constitution. It is no wonder then that Serbia does not have a strategy for fighting against key security threats such as terrorism, organised crime and corruption.

The points made above demonstrate that the Serbian public has been denied answers from their elected officials and the institutions in charge regarding their personal and collective security. At the same time, citizens do not know how and with what means the state is to provide security and at what costs, or whether protection is in place against existing security threats. For example, the government still has not specified the full cost of Serbia's potential accession into European and/or Euro-Atlantic integration initiatives, nor the price of its newly proclaimed military neutrality.

All this can be understood as the unavoidable consequence of bad political strategies of governing parties and their coalitions with the result that transition and SSR are treated as conceptually separate and therefore proceed on parallel tracks. The biggest testimony to this is the attempt of political parties to ordain a (pro) democratic system, whilst failing to implement a parallel process of radically reforming of the state apparatus of force. Similarly, they attempted to reorganise the state security sector without creating the necessary democratic preconditions and climate to frame such actions. These political parties, as a result of their (in)action have actually held back the democratic process in Serbia. Because of this, they have consistently tried to fill these conceptual gaps with talk of "new reform" and wide media promotions of grand promises and goals. They also have with equal enthusiasm, continuously dramatised and securitised the position of Serbia, thereby creating additional internal obstacles to SSR.

There is also little evidence that the ruling parties since the Milosevic era have actually adopted a holistic approach to understanding the security sector and its reform. The Constitution of Serbia does not envisage creation or define a specific sector, or system of national security. Moreover, all other non-state actors are outside of this constitutional regulation. To make things worse, since there is no law on private sector security companies they operate without any legal framework, outside the framework of the security sector in Serbia. In addition, under the constitutional umbrella there is no place for those governmental institutions and agencies which have become part of the security system since they have some police powers such as the secret collection of citizens' personal data.

Those in power have failed to constitutionally and legally develop and implement procedures for democratic civilian control and oversight of the security sector and its actors. One must note that the authors of the Constitution have empowered the National Assembly to control and oversight the traditional governmental apparatuses of power. On the other hand, all parliamentary parties, both ruling and opposition, stripped the parliament of its political power and real strength to carry out its functions. Hence, control of the state apparatus of

force in Serbia, has remained *de facto* in the hands of the executive branch of government and of its leaders.

In addition, under the Constitution democratic civilian control can be executed over the army, but not over the police force. An additional law, adopted much later, actually regulates this type of control over civil and military security and intelligence agencies. However, private security companies and all actors which have the right to use police powers operate without any legal regulation, despite the fact that, by nature, those agencies could actually endanger citizens' basic constitutional rights. These entities, as opposed to the police and state security agencies, are able to gather secret data and information about citizens and other subjects, without having to provide a court order and are beyond parliamentary oversight.

In the absence of any defined concept, strategy or system of security, Serbia does not have a clearly formulated security policy. The Serbian government has made no attempt to create or adopt a state-level plan for the synchronised reorganization and reform of the security sector. It is thus not surprising that so far none of the necessary laws, which would enable a consistent and systematic regulation of the national security system, have been adopted. It is therefore difficult to identify the logic and parameters used by previous and present governments in determining the country's security needs, how they planned and defined future requirements for the modernisation and reform of the state security actors. Even less is known about how much has been spent so far and how much is needed to invest in order to complete the reforms.

Secondly, the pace and achievements of SSR have been directly connected to the party and individual interests within the responsible governmental bodies. As a result, SSR has reflected personal and party preferences, as well as the political interests and needs of civilian leaders. Consequently, the reform of the security sector and stae apparatus of force in Serbia throughout the whole period has been partial, slow and divided.

By means of conclusion we could say that initial, but insufficient preconditions were set for the implementation of the second generation of SSR in Serbia. It is to be expected that this process will be as slow and as long as witnessed during the previous generation, and that chances for fast-track security sector reform or radical changes in the stae apparatus of force are slim.

Main research findings[3]

DIMENSION I: DEMOCRATIC GOVERNANCE

1. Representativeness

State actors in the Serbian security sector are obliged, when hiring and managing their personnel, to follow the principle of representativeness, or equality and/or proportionality in gender and national representation. This obligation is ensured by the Constitution, which guarantees equality of all citizens and prohibition of discrimination. These guarantees are elaborated in more detail in the accompanying legislation about state administration and labour, and are binding for the state authorities in charge of security. The Constitution sets out, at the same time, that discrimination shall not include any specific regulations and provisional measures which the Republic of Serbia may use in order to achieve full gender equality, and equality between the members of minorities and the members of national majority. However, constitutional and legislative provisions are insufficiently precise to provide a legal framework for the elimination or suppression of discrimination. Consequently, state authorities are responsible for stipulating the employment and career development procedures and criteria in their bylaws that will promote gender equality and proportional representation of national minorities.

a. Representation of Women

However, not all state authorities belonging to the security sector have, in their respective bylaws, uniformly stipulated the application of the principle of representativeness. This explains the variations in their respective application of this principle. Research findings show that, in the past period, the Ministry of Interior (MoI) has made the largest progress in the enhancement of representativeness. This is primarily true for the application of the principle of gender equality. Thus, the number of women in the army operating ranks has in the meantime risen to almost three thousand, accounting for 32.6% of the total number of women who are employed by the MoI today. Also visible is the progress made by the National Assembly where 23% of deputies are women. However, there is only one (5.8%) female member of the parliamentary Defence and Security

[3] Main findings, based on the reports of the members of the Research Team, were summed up and composed by Mr. Predrag Petrović, CCMR Research Coordinator.

Committee. Satisfactory representation of women has been achieved in the judicial system and in the Administration for Execution of Criminal Sanctions. By ensuring equal requirements for admittance into military service and admitting, for the first time, women to be schooled in the Military Academy, the Army of Serbia has made an essential step forward in this direction.

b. Representation of Ethnic Minorities

Ethnic minorities, however, are not adequately represented in the state authorities responsible for security. Despite progress in the National Assembly, the same level of representation has not been achieved in the election of deputies to the Defence and Security Committee. For instance, only representatives from the Bosniak minority can be found among its members. Nevertheless, certain progress has been made by the MoI in certain parts of the country. Police stations in three municipalities in the south of Serbia employ a larger number of people from the ethnic Albanian minority. Other state institutions, however, have seen no improvement in the representation of ethnic minorities. In addition, there has been no progress in formulating policies to encourage higher representation. One exception is the Security Information Agency (SIA) which has invited and encouraged, although only in a single sentence, members of ethnic minorities to apply for employment with this institution.

2. Transparency

a. General Transparency

In the observed period, Serbia has created the initial regulatory premises and the environment conducive for improving visibility of the operations of state actors in the security sector. This is primarily due to the fact that the right of free access to information of public interest is guaranteed by the new Constitution of Serbia. The exercising of this right is elaborated in more detail in the Law on Free Access to Information of Public Interest. The same piece of legislation also created the post of Commissioner for Information of Public Importance. Likewise, all state authorities are obliged to publish a publicly available bulletin about their operations.

There is no doubt that the operations of the National Assembly have become more transparent. The most important factor in this development is the direct broadcasting of Assembly sessions by the state-owned broadcasting service Radio Television Serbia (RTS). Also, most sessions of its Defence and Security Committee are public. These sessions are recorded and summaries of debates are made available to the general public through the (regularly updated) website of the National Assembly.

Communication between civil society associations, academic institutions, and state actors in the security sector has also visibily improved. This is illustrated by their joint participation at a larger number of conferences and round tables. A particular notable development is that most competent ministries are organising more frequent public debates about draft laws and draft strategies.

Despite this progress, major problems still exist in the practical implementation of the right of free access to information of public importance. One of the main reasons is the absence of a law on data classification with the result that, for example, security services often deny requests for information to deputies, journalists, and the general public, citing reasons of state secret.

b. Financial Transparency

The findings show that financial transparency in the security sector, and particularly in state actors, is still unsatisfactory, despite the establishment of initial regulatory and institutional premises to allow for improvement in this area. Some progress was made in 2006 with the Law on the Budget which stated that data about general expenditures of the security services should be made public. The continued lack of visibility in the financial operations of this sector, however, can be attributed to the fact that the Law on Supreme Audit Institution has still not been implemented in practice. Likewise, the parliamentary Defence and Security Committee, and the Finance Committee do not release information on state expenditures, such as the budgets of the military, police, and security services, and particularly whether these public funds are spent in a lawful and proper manner. A further issue that contributes to the lack of financial transparency is the exemption of the Ministry of Defence, the Ministry of Interior, and security services from the legal procedures for public procurement.

It is also important to note that low financial transparency is also present in civil society organisations (CSOs). Research show that most of these organisations do not make their annual budgets publicly available, partly because there is still no specific law that regulates their status.

3. Participation of citizens and their associations

As noted above, there is an increasing tendency for public and civil society participation in the creation, implementation and evaluation of Serbian security policy, in clear contrast to the situation during the authoritarian regime. This development has been encouraged by the establishment of normative premises for the involvement of the public and civil society organisations. In particular, the Constitution of 2006 guaranteed the right for citizens to participate in the administering of public affairs. Following this, the Law on Public Administration (2005) stated that public authorities must introduce public debate during the

process of drafing laws which modify the legal regime in a specific area, or laws which regulate issues of particular public interest. On one level change can be observed in the fact that state actors no longer, at least not in public, refer to civil society organisations as 'national enemies' and 'foreign hirelings'. Also, professional and academic cooperation between state actors and local universities and faculties, as well as with civil society organisations is more common.

It has also become customary for state authorities to allow public access to individual draft laws and strategies in the sphere of security. Some of them, such as the Ministry of Defence, allowed only short periods for public debate, which prevented a thorough debate. In general, however, most state authorities make no effort to encourage public participation in debates on security issues. As a result, there is still much mystification surrounding some actors in the security sector, particularly the security services, and there is widespread sentiment that any involvement in these issues can be dangerous.

One reason for inadequate public participation is the nature of civil society organisations in Serbia. There are many CSOs in Serbia that deal with security issues, but the majority do so on an *ad hoc* basis. In addition, few have a strategic plan of development, or long-term budgetary projections, nor do they have dependable funding sources. Consequently, their choice of topics is to a great extent subject to circumstances.

4. Accountability – democratic civilian control and public control and oversight

With the adoption of the new Constitution in 2006 and the set of systemic laws relating to defence and security in December 2007, the initial normative framework was created for democratic civilian control and control and oversight over most actors in the security sector. Although this framework is not complete, it represents a marked improvement on the period before 2000. Nevertheless, public authorities with police-like powers (such as the customs authorities, the fiscal police, and the Administration for the Prevention of Money Laundering) and the private security sector are still exempt from control and oversight.

a. Executive Power

More detailed regulation of the civilian chain of command and management, and establishment of mechanisms for the executive control over the state enforcement apparatuses are among the most significant achievements accomplished to date in security sector reform. Institutions of the executive government – the President of the Republic, the Government, the Ministries, and the National Security Council – now have broader functional, organisational and personnel-related authority which enables them not only to effectively control

state actors in the security sector, but also to control their operations. Moreover, re-subordination of military security services under the Minister of Defence is an important step in the reform process. At the same time, internal control bodies have been set up in most security institutions.

There are, however, a number of shortcomings in the mechanisms for effective executive government control over the security sector. Due to imprecise legislation, too much room has been left for interference by the executive government in the work of the organisations subordinated to it. This is can be observed in the MoI, whose minister enjoys vast discretionary powers. As a result, the public is still under the impression that state security institutions act in the interests of the government and politicians. A public opinion survey found that 74% of respondents do not consider that the police serve the public, and that the government and the politicians exercise great influence. Public trust is further undermined by the continued practice of making appointments based on political coalitions and agreements. This in turn puts a question mark over both the competency and the willingness of the Government and its ministries to create and implement a common security policy that ensures effective cooperation between the relevant state bodies.

The present government attempted to offset this deficiency by establishing the National Security Council, a move which should provide for better communication between competent state authorities. Legislators have, however, missed the opportunity to lay down the competences and procedures for parliamentary and public control and oversight over the operations of the Council. A similar omission was made in drafting the Constitution since it does provide for the accountability of the President of the Republic for any omissions in their command of the Serbian Armed Forces. These omissions allow the President of the Republic (who presides over the Council) to acquire, contrary to the Constitution, significant formal and also informal authority over the army, police, and security services.

In addition, the entire security sector is beyond any control or oversight. No law has been adopted to regulate the security sector, and the control mechanisms which do exist are not implemented. For instance, even though the MoI has the right (as specified by the Law on Weapons and Ammunition) to conduct inspection of private security companies, it has never exercised this right. Or, if it has done, there is no evidence that it notified its findings either to the National Assembly or the public.

b. Parliamentary control and control and oversight

According to existing legislation, the National Assembly and the Defence and Security Committee enjoy considerable powers of control and oversight and control over the state security sector. This is particularly true for the right to oversee security service operations. However, we better note that now if force

are three laws on these services, which makes the job much more difficult for the deputies.

Although the legal grounds are adequate, in reality parliamentary control and oversight have been ineffective. The authority and political power are for the most part in the hands of the executive branch; effectively the parties in power. This has seriously undermined the principle of the division of government and thus the National Assembly is often used for the legalisation of the decisions which were earlier made at the top level of coalition parties, i.e. in the executive power bodies.

In Serbia, the election of representatives from the opposition parties to head the key parliamentary committees does not necessarily, or does not at all, lead to better control and control and oversight over the government and state apparatuses of force. The most powerful opposition parties (for reasons known only to them) fail to, through the Defence and Security Committee, systematically control and oversee the operations of the competent ministries and state apparatuses of force subordinated to them. The Rules of Procedure currently in force provide only for the Committee to consider, or adopt, security related legislative proposals. Moreover, the Committee often adopts these proposals in emergency procedures, thus depriving it of the opportunity, for instance, to consult independent organisations and experts about the proposals. Also, the time frame during which the Committee frequently considers its findings is insufficient to analyse in any depth the reports submitted to it by competent ministers or the director of the SIA. In addition, the National Assembly and its Defence and Security Committee have not taken the opportunity, offered by the Rules of Procedure of the National Assembly, to engage in control and oversight over the spending of budget funds or the procurement of weapons and equipment.

Evidence shows that parliamentary parties and their deputies have little interest in the control and control and oversight over the security sector and its state actors. Consequently, they do not make use of existing instruments of control. A further issue is that the Defence and Security Committee has responsibility for the entire security sector. This means that Committee members are expected to have adequate knowledge of all sections of the security services; the military, police, and the private security sector. Deputies' time is further stretched by their membership of several other parliamentary committees. In addition, the Committee has very limited administrative and professional support. Finally, in the absence of a law on data classification, members of the Committee often do no know what information they are entitled to request and receive, and from which sources.

Prisons and the private security sector are also completely outside parliamentary control and control and oversight. For example, the National Assembly has still not set up the specific commission, as envisaged by the law, for external and independent control of the prison system. Other state authorities with

police-like powers (such as the customs administration, the fiscal police, and the Administration for the Prevention of Money Laundering) are beyond parliamentary control and oversight. Consequently, there is no body charged with overseeing how and for what purposes they use police powers, and the impact of their operations upon rights guaranteed by the Constitution.

c. Judicial Control

The Constitution and the law regulate the basic mechanisms for judicial control over state actors in the security sector. This primarily concerns control over the lawfulness of applying the measures for secret data collection. The security services and police must obtain written judicial consent before applying these measures. The courts are competent to decide also about the lawfulness of final administrative acts in disputes concerning criminal liability of the members of service, as well as in cases of compensation for any damage incurred to citizens. Such competences lie with district courts and the Supreme Court of Serbia. The Supreme Court of Serbia has judicial control over the prison system and rules on appeals and parole applications.

However, the implementation of judicial control is still fraught with problems. Thus representatives of the court underline that issuance of approvals for resorting to specific evidentiary procedures is more frequent than in other countries. In addition, the courts do not usually have technical capacity to physically keep and destroy the data collected through specific measures and thus some of this data is leaked into the public domain. It should also be added that the courts are overwhelmed by their caseload and that court proceedings take too long.

d. Public control and oversight

In the observed period, control and oversight has been somewhat improved thanks to the work of civil society organisations, academic institutions, as well as the establishment of the institutions of the Commissioner for Information of Public Importance, Protector of Citizens, and Supreme Audit Institution. However, these institutions have started to operate only recently and are thus yet to overcome many obstacles that hinder their work.

5. Rule of law

a. Rechstaat (Legal State)

In the observed period, significant progress was made in implementing the rule of law in the Serbian security sector, in part because the rule of law has a very

important place in the Constitution and domestic legislation. The fact that almost all systemic laws regulating the security sector have now been adopted confirms that progress has been made. Thus, in the recent period (for the first time since WW II) the law has regulated the status and scope of activities of the military security services. This also entailed the regulation of procedures for implementation of specific measures for secret data collection.

However, there are a number of omissions in the legislative regulation of the security sector. For example, systemic laws were not adopted according to a preset plan, or at the time and in the scope required for a successful reform. Therefore, legislative regulation of this sector was largely subject to the political needs and will of the competent ministries and their leaders. An additional problem is that some laws and strategic documents were adopted before the adoption of the Constitution. Consequently, there remains a need to adopt new laws or to ensure that existing ones comply with the Constitution.

A further complication is that the Constitution incompletely regulates the security sector. For instance, the Constitution did not foresee the creation of the National Security Strategy. Consequently, it was the Law on the Basics of Security Services that provided for the existence of the Strategy, but it too did not regulate the procedure of its drafting and adoption. Further aggravating the situation is the fact that Serbia inherited a number of laws from the former State Union of Serbia and Montenegro, some of which are still in force, such as the Law on the Security Services of FRY. It is thus unsurprising that some laws are inconsistent with the new Constitution and that existing laws do not appropriately regulate some specific areas within the security sector.

This is particularly obvious in the case of legislative provisions regulating the implementation of specific measures, in particular authorisations for secret data collection. First, secret data collection is regulated in several laws. This reduces the degree of legal protection for citizens and impedes parliamentary control and oversight over the implementation of those measures. An increase in the number of state authorities which are now allowed to resort to specific measures represents an addition problem. A number of valid security reasons exist for giving this right to the customs administration, the tax authorities, or the Administration for the Prevention of Money Laundering, but there is no justification that, as opposed to the security services and police, they do not need previous court approval to apply those measures. Also, the law does not say who is responsible to control and oversee the manner in which these state authorities apply the above measures and how they keep records, i.e. how they archive and destroy the collected data.

The rule of law is further undermined by the absence of a specific law to regulate the status of the private security sector. Also, the Law on Data Confidentiality is still not adopted. Finally, the regulations of civil society organisations should be updated.

b. Protection of Human Rights

Since 2000, Serbia has made huge steps in the protection of civil rights and the rights of personnel in the state security sector. The MoI has made great progress in this respect since the majority of relevant legislation now complies with international standards for the protection of human rights. Moreover, the provisions concerning the protection of human rights and non-discriminatory conduct of police are incorporated in basic police training, and annual additional training programmes for personnel of the MoI and the Internal Control Division have been established. Despite the progress made, reports by both international organisations and local CSOs highlight cases of police brutality and unsatisfactory conditions for persons detained in police cells.

Other institutions have been less successful in creating a conducive environment for the protection of human rights. The security services have as yet not established an internal control division. Likewise, after the adoption of the Law on the Basics of Security Services, those employed in the military security services lost the right to refer to the parliamentary control body in cases where their rights in the service are infringed. Also, according to the findings of the European Committee for the Prevention of Torture, the human rights of prisoners in Serbia are poorly served. Finally, a general deficiency is that information about human rights infringements are not made publicly available.

DIMENSION II: EFFICIENCY

a. Human Resources Management

Efficiency of state actors in the security sector is very hard to assess for several reasons. Firstly, the data on which the assessment could be made is not accessible to the public. Public appearances made by the leaders of security institutions are the only source of information, and on such occasions they generally state that they have done a great deal to reorganise, revitalise and rejuvenate their personnel; that much was done on training and education of the personnel. An additional problem is that such statements made by heads of security institutions cannot be verified by independent sources. Moreover, state bodies competent for security sector control do not notify the National Assembly about the efficiency of the army, police, or security services.

b. Material Resources Management

Based on analysis of available information, efficiency in the institutions involved in security issues is not satisfactory. One reason is the cost of investment in sophisticated equipment and training of personnel, which can be prohibi-

tively expensive for a country in transition. Another important reason is that the management style of the state administration is overly centralised and politicised, as well as expensive and outdated in relation to modern principles of human and material resources management in public administration.

DIMENSION III: EFFECTIVENESS

The effectiveness of security sector actors is affected by the absence of an integrated system of national security. The Constitution also fails (at least implicitly) to force the authorities to establish an integrated national security system. This problem is partly compensated by the establishment of the National Security Council, but the Council is a hybrid body comprising top political decision makers and professional heads of individual portfolios that are subordinated to them. Also, it is not clear why the minister of foreign affairs is not a permanent member of the Council when security policy is, or should be, an integral and constituent part of Serbian foreign policy. Further, the law does not provide for any control and oversight over the Council, leaving it unaccountable.

Also, there are clear overlaps in the competences of some security institutions, such as those dealing with terrorism and organised crime. Another serious problem for achieving full effectiveness of the security system is that the private sector is ignored despite the fact that is now an important industry. Also, Serbia the only country in South-Eastern Europe that not adopted a Strategy of National Security. With the adoption of this document, which should define security objectives and means, bodies which are responsible for control and oversight would obtain important parameters for the effectiveness assessment of the sector and its actors.

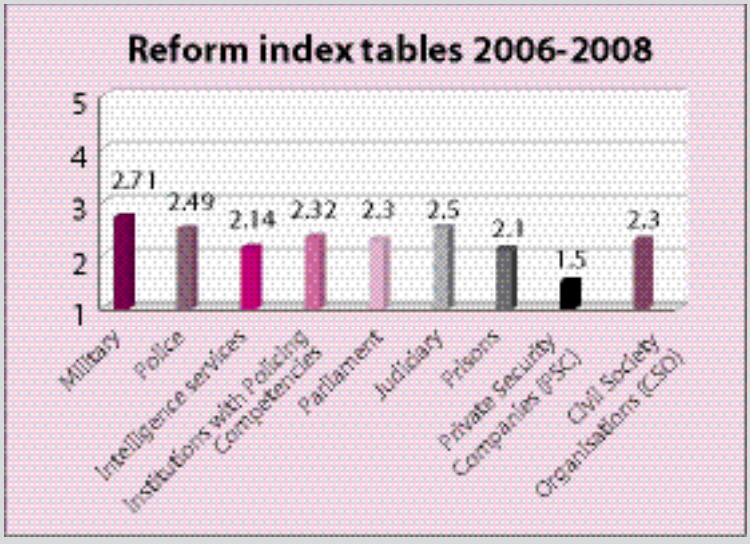


Chart 1: Reform index of statutory actors

REFORM INDEX TABLES
REFORM INDEX OF STATUTORY ACTORS THAT HAVE THE RIGHT TO USE FORCE

Dimension	Military	Police	Intelligence Services	Institutions with Policing Competencies
Democratic Governance	2.73	2.47	2.1	1.97
Efficiency	2.75	2,5	2	3
Effectiveness	2.66	2.5	2.33	2
Actors' Reform Index	2.71	2.49	2.14	2.32
Reform Index 2.41				

Table 1: Reform index of statutory actors that have the right to use force

STATUTORY ACTORS THAT HAVE RIGHT TO USE FORCE

DIMENSION: DEMOCRATIC GOVERNANCE					
Criteria	**Subcriteria**	**Military**	**Police**	**Intelligence Services**	**Institutions with Policing Competencies**
Representativeness	Representation of Women	2.5	3	2	3
	Representation of Ethnic Minorities	2	3	2	2.5
	Average Grade	**2.25**	**3**	**2**	**2.75**
Transparency	General Transparency	3	2	2	3
	Financial Transparency	2.5	2	2	2.5
	Average Grade	**2.75**	**2**	**2**	**2.75**
Participation of Citizens and Civil Society Organisations in Security Policy	Participation in Policy-Making	3	2	2	1
	Participation in Implementation and Evaluation of Policy	3	2.5	2	2.5
	Average Grade	**3**	**2.25**	**2**	**1.75**
Accountability	Control by the Executive	3,5	3	3	2,5
	Parliamentary Control and Oversight	2	2	2	1
	Judicial Control	2	2,5	2,5	1
	Public Control and Oversight	3	3	2	1
	Average Grade	**2.63**	**2.62**	**2.37**	**1.37**
Rule of Law	Rechtstaat (Legal State)	3	3	2	1,5
	Protection of Human Rights	3	3	2	1,5
	Average Grade	**3**	**3**	**2**	**1.5**
Actors' Average Grade for Democratic Governance		**2.73**	**2.47**	**2.1**	**1.97**
Average Grade for Democratic Governance				**2.32**	

Table 2: Statutory actors that have right to use force

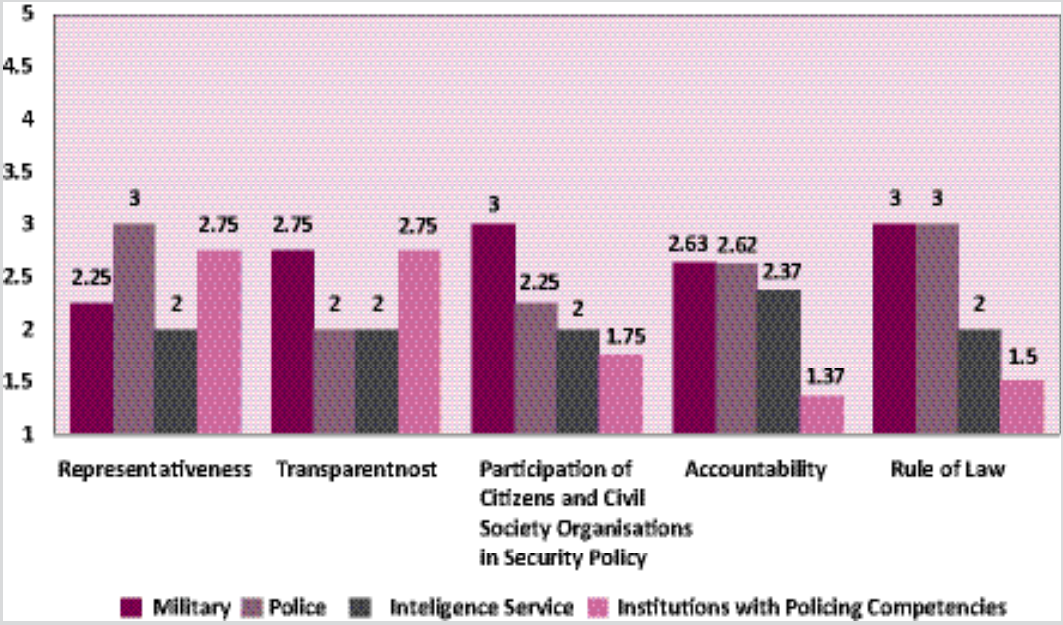


Chart 2 Democratic governance of statutory actors that have the right use force

EFFICIENCY
STATUTORY ACTORS THAT HAVE THE RIGHT TO USE FORCE

DIMENSION: EFFICIENCY					
Criteria	**Military**	**Police**	**Intelligence Services**	**Institutions with Policing Competencies**	***Average Grade for Efficiency***
Human Resources Management	3	2	2	3	
Material Resources Management	2.5	3	2	3	
Actors' Average Grade	**2.75**	**2.5**	**2**	**3**	**2.56**

Table 3: Efficiency statutory actors that have the right to use force

EFFECTIVENESS
STATUTORY ACTORS THAT HAVE THE RIGHT TO USE FORCE

DIMENSION: EFFECTIVENESS					
Criteria	**Military**	**Police**	**Intelligence Services**	**Institutions with Policing Competencies**	
Integratedness	2.5	2.5	2.5	1.5	***Average Grade for Effectiveness*** **2.37**
The Ratio between Aims, Resources and Outcomes	2.5	2	2.5	2.5	
Legitimacy	3	3	2	2	
Actors' Average Grade	**2.66**	**2.5**	**2.33**	**2**	

Table 4: Effetieveness statutory actors that have the right to use force

STATUTORY ACTORS THAT DO NOT HAVE THE RIGHT TO USE FORCE

Criteria	Sub-criteria	Judiciary	Prisons
Representativeness	Representation of Women	2.5	3
	Representation of Ethnic Minorities	2	3
	Average Grade	**2.25**	**3**
Transparency	General Transparency	3	2
	Financial Transparency	2.5	2
	Average Grade	**2.75**	**2**
Participation of Citizens and Civil Society Organisations in Security Policy	Participation in Policy-Making	3	2
	Participation in Implementation and Evaluation of Policy	3	2.5
	Average Grade	**3**	**2.25**
Accountability	Control by the Executive	3.5	3
	Parliamentary Control and Oversight	2	2
	Judicial Control	2	2,5
	Public Control and oversight	3	3
	Average Grade	**2.63**	**2.62**
Rule of Law	Rechtstaat (Legal State)	3	3
	Protection of Human Rights	3	3
	Average Grade	**3**	**3**
Efficiency	Human Resources Management	2	2
	Material Resources Management	2	2
	Average Grade	**2**	**2**
Effectiveness	Integratedness of System	2	2
	The Ratio between Aims, Resources and Outcomes	2	2
	Legitimacy	2	1
	Average Grade	**2**	**1.66**
Reform Index		**2.55**	**2.11**

Table 5: Statutory actors that do not have the right to use force

STATUTORY ACTORS THAT DO NOT HAVE THE RIGHT TO USE FORCE

National Assembly/Parliament	
Criteria	**Grade**
Competencies	**3**
Resources	**1.5**
Practice	**2**
Legitimacy	**2**
Transparency	**3**
Reform Index **2.3**	

Table 6: Statutory actors that do not have the right to use force

NON-STATUTORY ACTORS THAT USE FORCE

PRIVATE SECURITY COMPANIES	
Criteria	**Grade**
Transparency	**2**
Accountability	**1.5**
Rule of Law	**1**
Protection of Human Rights	**2**
Integratedness of Private Security Companies	**1**
Legitimacy	**1.5**
Reform Index **1.5**	

Table 7: Non-statutory actors that use force

NON-STATUTORY ACTORS THAT DON'T USE FORCE

CIVIL SOCIETY ORGANIZATIONS (CSOs)	
Criteria	**Grade**
Capacity for Exerting Control and oversight of Security Sector	**3**
Rule of Law	**2**
Transparency	**2.5**
Integratedness of CSOs	**2**
Legitimacy	**2**
Reform Index **2.3**	

Table 8: Non-statutory actors that don't use force

Recommendations for further security sector reform

1. A National Security Strategy, based on the strategies for social development, foreign policy and other complementary strategies, should be created and adopted by the National Assembly.
2. The National Security Strategy should lay the foundations for a unified security apparatus for the Republic of Serbia and also outline the general structure and principles of operation for such an apparatus.
3. The Law on the National Assembly should be expanded in order to more precisely determine the powers which the National Assembly and its various parliamentary bodies can use to exercise control and control and oversight of the security apparatus and all actors involved therein.
4. New legislation should be passed in order to precisely define the powers which the National Defence Council can use to direct, coordinate and monitor both the security apparatus and the nature of its accountability to the National Assembly.
5. New legislation should be passed on democratic civilian control and public control and oversight of the security apparatus and the actors engaged therein, with particular reference to state and non-state actors authorised to bear arms and use force.
6. New legislation on the protection of information should be passed and should clearly outline how information is classified and declassified and who is authorised to access it.
7. New anti-discrimination legislation should be passed, and special government bodies should be set up to monitor its implementation and the development of this field as a whole.
8. The National Strategy on the Improvement of Women's Rights and the Law on the Equality of the Sexes should be adopted in order to reaffirm anti-discriminatory measures for the employment of women and the advancement of women's rights.
9. A Law on Associations of Citizens should be passed in order to provide a legal basis for the work of civil society organisations operating in the security sector.
10. New legislation should be adopted, or existing legislation amended, in order to facilitate the protection of human rights both of the personnel of state institutions authorised to use force and of ordinary citizens which they interact with.
11. Existing legislation should be amended to make it compulsory for all actors

in the security apparatus to report regularly to the National Assembly and the public on the status and possible breaches of human rights, both of the personnel working in the relevant state institutions and of ordinary citizens.

12. Existing legislation and ordinances should be amended in order to more precisely define the responsibilities of actors in the security apparatus in relation to independent government bodies.
13. The necessary conditions for the unhindered operation of the State Auditor's Office should be ensured in order to enable this institution to carry out regular checks of budget expenditure by all actors engaged in the state security apparatus.
14. Complimentary regulations, in particular the Law on the Classification of Secret Information, should be passed as a matter of urgency in order to create the conditions for the full enforcement of the Law on Freedom of Access to Information of Public Importance.

Statutory actors that have right to use force
THE ARMED FORCES OF SERBIA

1. The Strategic Defence Overview and the White Paper on Defence should be proposed for adoption by the Minister of Defence and brought before the National Assembly.
2. The National Defence Strategy and Military Doctrine should be completed and adopted.
3. Legislation should be passed in order to regulate the procedures and parties responsible for democratic civilian control and public control and oversight of the Armed Forces of Serbia and the defence apparatus.
4. New legislation should be passed on military intelligence services.
5. Contradictions present in the wording of the Constitution, the Law on Defence and the Law on the Armed Forces of Serbia, regarding the command responsibilities of the President of the Republic and the overall control of the defence apparatus should be resolved.
6. The Law on Defence and the Law on the Armed Forces of Serbia should be amended in order to properly delineate the responsibilities of the Minister of Defence and of the Chief of Staff and to regulate relations between them.
7. The Law on Defence and the Law on the Armed Forces of Serbia should be amended in order to clearly define the responsibilities of the Minister of Defence as well as the position of this office in the civilian chain of command of the Armed Forces and the defence apparatus.
8. The President of the Republic should be required by law to consult the relevant National Assembly Committee prior to the appointment or dismissal of the Chief of Staff or the head of a military intelligence.
9. Existing legislation and ordinances should be amended in order to facilitate greater transparency regarding declassified decisions made by the Defence Inspectorate, as well as any steps taken to implement recommendations made by this office.
10. New legislation should be passed in order to establish a state fund for the reform of the armed forces. This fund would, amongst other functions, regulate and manage the conversion and sale of excess state assets used by the Armed Forces of Serbia, the proceeds of which would be returned to the fund.
11. The Law on the Armed Forces of Serbia should provide adequate procedures and criteria to address the issue of irregular promotion of professional servicemen.
12. The Law on the Armed Forces of Serbia should be amended in order to clearly define the responsibilities and modus operandi of the Military Police. Alternatively, new legislation should be passed to regulate this branch of the Armed Forces.

13. The Minister of Defence should propose measures, procedures and deadlines for the introduction of a scale to regulate the numbers and responsibilities of civilian and military employees working in the Ministry of Defence.
14. The number of State Secretaries employed by the Ministry of Defence should be restricted, and their responsibilities and duties clearly defined, by Governmental Decree.
15. The Minister of Defence should propose a special act for the introduction of systematic measures for the realisation of gender equality within the Armed Forces and the defence apparatus.
16. The Minister of Defence should propose a special act for the introduction of systematic measures for the realisation of representative participation by ethnic minorities in the Armed Forces and the defence apparatus.
17. The Minister of Defence should present regular reports to the National Assembly and keep the public informed on budgetary allocations to the Armed Forces.
18. The Minister of Defence should propose the adoption of a strategy on military education reform.
19. Procedures should be put in place regarding the reporting of any breaches of legal norms, particularly human rights abuses, to the National Assembly, the Government and the President of the Republic and to the public.

POLICE

1. The limitations for enrolment of women into police training and education should be abolished. It should also be made possible that all the female candidates who fulfil the necessary conditions and who pass the entrance exams for attending the Basic Police Training and the Academy for Criminal and Police Studies be admitted to courses, as well as that their education is funded from the budget resources.
2. Pro-active measures should be developed and endorsed for keeping women in police jobs, as well as for encouraging their career development towards management positions within the operational force, without positive discrimination.
3. Separate budgetary resources should be allocated for publishing calls for applications for police jobs in minority languages and in minority communities' media. It should be ensured that the minority members that had been admitted to police training and education are not discriminated against by their peers.
4. The term "justifiable interest" should be erased from the Article 5 of the Law on Police, because it stands in contradiction with the international standards on free access to information of public interest.
5. The Information Booklet of the MoI should be broadened to include infor-

mation relating to the kinds of services provided by the MoI, procedures for exercising rights, and relevant information on the enforcement of laws that are most important to the public. It should also be regularly updated. The Information Booklet should be expanded to include data relating to available budgetary and other funds, including their use. It should be expanded to include the data about the number of employees, salary scales, public procurements, available equipment and other resources. It should provide an overview of the revenue made by acquiring additional means through provision of services of the MoI (Article 182 LoP), as well as on the information relating to extra-budgetary means gathered for the enhancement of the work of police, such as aid or donations from national or foreign non-governmental and other legal entities (Article 18 LoP). This should be published either within the Information Booklet or in a separate report. In addition to the list of laws enforced by the police, explanations regarding the most important legislative changes should be published at least twice a year.

6. Economic budget classification should be replaced, as soon as possible, by a functional budget classification so as to have a more clear presentation of purpose of the budgetary appropriations. All necessary conditions for the work of the Supreme Audit Institution should be ensured as soon as possible, and its employees should be additionally trained for the control of financial operations of the police and the MoI as a whole.
7. Mechanisms should be established for regular consultations of the MoI with representatives from civil society and citizens regarding the policy priorities both at the national and at the local level. Furthermore, permanent consultation bodies in cooperation with Civil Society Organisations should be set up in order to enhance the process of policy and law making in the areas that are within the competencies of the MoI and which are crucial for Serbia's progression towards the EU, as well as for applying for the pre-accession assistance from the IPA funds.
8. The National Community Policing Plan should be adopted and resources for its implementation should be allocated. As a part of the implementation of this plan, support should be given to the establishment and the work of Citizens' Advisory Groups at the level of local communities, as well as to the work of the inter-agency bodies for cooperation between the police and the local authorities and citizens in all municipalities throughout Serbia.
9. De-centralisation of decision-making in operational work should be promoted and prescribed through regulation so as to have a more successful re-organisation of the MoI and police service.
10. Possibilities for politicisation of operational work should be reduced through the increase of the Police Director General's competencies. In addition, it should be ensured that police is operationally independent from the line ministry.

11. Articles 177, 178 and 175 of the Law on Police, which reduce operational independence necessary for efficient performance of internal control and oversight, should be changed. Furthermore, regional centres of the Internal Affairs Sector should be equipped and better staffed so as to enable more efficient control of police work outside Belgrade. The Internal Affairs Sector should be encouraged to focus particular attention on investigating and combating of corruption in police.
12. Members of the Parliament of the Republic of Serbia, and especially members of the Security and Defence Committee, should oversee of the work of the MoI and use all the mechanisms at their disposal. In addition to reviewing the Report on the Ministry's activities and on the security situation in the Republic of Serbia, which the Minister is obliged under the Law on Police (Article 9) to submit once a year, the Committee can request a separate report on the work of the Internal Affairs Sector of the MoI (Article 179), as well as other reports from within the area of competence of the Ministry. The Committee can pose verbal and written questions about concrete activities of the MoI.
13. Reports on the work of courts and public prosecutors should especially incorporate the data on the results regarding certain forms of police control and oversight, as well as the data that would indicate possible difficulties in conducting the control and oversight. These data should be also available to the public.
14. Public prosecution and courts (judiciary) should pay special attention to efficient prosecution and sanctioning of all unlawful acts by the police; they should also make their rulings without undue delay on compensation of damages stemming from unlawful or irregular police work.
15. Courts should enhance their ruling on lawfulness of final administrative enactments of police bodies, including the administrative enactments relating to the rights and responsibilities of police officers.
16. All necessary conditions for the functioning of the Ombudsman, the Commissioner for Free Access to Information and the Supreme Audit Institution should be secured as soon as possible, and their staff should be additionally trained to perform the control and control and oversight of the police. A mechanism ensuring enforcement of decisions of these independent bodies within the MoI and police should be adopted.
17. The Government of the Republic of Serbia should adopt the plan for the harmonisation of the existing legal framework of police work and organisation with the Constitution and the ratified international agreements, the goals of police reform and commitments stemming from the Stabilisation and Association Agreement (Articles 80 – 87), as well as with the commitments undertaken within the regional cooperation framework (substantial harmonisation).
18. A thorough revision of the laws and bylaws regulating the police should be

conducted to ensure the protection of human rights and to verify that they are harmonised with international regulations. Particular attention should be paid to the internal police regulations that deal with certain issues relevant for its performance (internal instructions and directives).

19. Overall analysis and revision of human resources should be conducted in line with the strategic plan. Based on the analysis, appropriate social programme should be developed, and financial resources should be allocated to reduce the number of employees. Furthermore, an independent audit of salaries in the MoI should be conducted based on the revision of human resources.
20. The Directorate for Human Resources should be enabled to recruit and train personnel in line with quality criteria, and to enhance and develop the careers of all police officers and supporting staff in a transparent manner and in line with modern principles of human resources management.
21. Mechanisms for efficient coordination and standardisation of specialised training within the MoI should be further developed. In addition, the Directorate for Police Education, Training, Professional Development and Science should be tasked with the planning and implementation of this type of training in cooperation with the organisational units of the MoI and the Directorate for Human Resources.
22. Priority should be given to the development of functional and sustainable capacities of criminal intelligence in the police service, thus making their findings available to all operational units that need them.
23. The Ministry of Interior should develop special campaigns to enhance trust among groups that have the least trust in the police, such as the young urban population and members of some ethnic minorities.
24. A strategy of the MoI, which would clearly set forth the priorities of police reform in the next three to five years, should be adopted.
25. Analytical capacities of the MoI in all organisational units should be further developed, and especially within the Directorate for Analytics of the General Police Directorate. Furthermore, additional efforts should be made to enhance the status of analytics within the MoI. This should enable the police to adopt knowledge-based policing.
26. The possibility of transferring administrative work (issuing of personal documents, etc.) from the competence of the MoI under the competence of the Ministry for Public Administration and Local Self-Government should be considered.

SECURITY-INTELLIGENCE SERVICES

1. Amendments to the existing laws and provisions of new legislation on civilian and military intelligence services should uniformly regulate the powers,

competences and procedures for the approval of special measures, as well as control and oversight of special measures temporarily limiting constitutionally guaranteed human rights, and thus fully affirm the principles of the Serbian Constitution regarding the rule of law, respect of human rights and observance of the highest European standards in this area.

2. A new law on the Security-Intelligence Agency should be passed in order to precisely regulate the competences, procedures and instruments for the democratic civilian control and control and oversight of the Agency's work.
3. A plan for the reform of intelligence services should be adopted by the Government and accompanied by budgetary appropriations.
4. The Prime Minster should be legally obliged to solicit the views of the parliamentary Security and Defence Committee and the National Security Council prior to the appointment or relief of the BIA director.
5. A special law should regulate the procedure of secret files of citizens kept by the Serbian and Yugoslavian security services from 13 May 1944, and order their removal from the services to the state archives or another state body established specifically for that purpose.
6. The new laws on civilian and military intelligence services should elaborate and specify their obligations towards supervisory bodies and supplement them with the forms of control and control and oversight missing from the *Law on the Basic Organisation of Security and Intelligence System of the RS*.
7. Public information on the findings of the State Audit Institution, Defence and Security Committee and the Committee for Finance of the National Assembly, deriving from the audit of intelligence services' financial operations, should be improved.
8. Legislative and systemic measures should support full independence of the courts from the executive, so that they can successfully oversee the work of intelligence services and oblige them to inform the public on the results and possible difficulties in the performance of this role.
9. A special act and measures should ensure full the compliance of the intelligence services with obligations stemming from the *Law on Free Access to Information of Public Importance* as well as Article 15 of the *Law on the Basic Organisation of the Security and Intelligence System of the RS*.
10. All conditions for the operation of the State Audit Institution should be provided as soon as possible and its employees additionally trained for the control of intelligence services' financial operations.
11. A special act should define systemic measures to encourage and achieve gender equality in the intelligence services and envisage their enforcement.
12. A special act should define systemic measures to encourage and achieve proportional representation of ethnic communities in intelligence services and envisage their enforcement.
13. A strategy for communication with the public should be developed and implemented in each of the intelligence services, in order to, inter alia, im-

prove public information on the role of intelligence services in a democratic society and ensure that the public is regularly informed on security phenomena and events in Serbia and the region.

14. Reports on the work of intelligence submitted to state supervisory bodies should include information that enables reliable evaluation of their efficiency.
15. Reports on the work of intelligence submitted to state supervisory bodies should include information that enables reliable evaluation of their effectiveness.
16. Academic and civil society organisations should encourage public discourse on the purpose, role and competences of the intelligence services in Serbia's democratic transition.
17. The views of Serbian citizens on intelligence services and their reform should be systematically surveyed, and the results of this survey regularly presented to the public and competent state bodies.
18. Promotion of civil society organisations and independent state institutions and the media should contribute to the strengthening of public control and oversight of intelligence services.

INSTITUTIONS WITH POLICING COMPETENCES

1. The Customs Law should be amended with provisions on parliamentary control and public control and oversight of the use of arms and use of force, as well as methods of covert collection of data on the subjects of customs regulations.
2. Amendments to the law should permanently regulate the procedures and competences for archiving and destroying intelligence available to the Customs Administration, the Administration for the Prevention of Money Laundering and the Tax Police.
3. The draft of the new Customs Law should include provisions on non-discrimination.
4. The Law on Arms and Military Equipment Manufacturing and Trade should be amended with provisions on procedures and competences of public authority bodies in the process of procurement of arms and military equipment.
5. Short-term and mid-term priorities of the Customs Administration, set forth in the National Programme for Integration with the EU, should be implemented consistently.
6. The conditions should be created for faster modernisation of the CA's Internal Control Department.
7. The new Law on Prevention of Money Laundering and Terrorism Financing should stipulate which body controls the Administration for the Prevention

of Money Laundering in terms of personal data.

Statutory actors that do not have right to use force
PARLIAMENT

1. The Law on the National Assembly and the National Assembly Rules of Procedure should precisely define the responsibilities of the Security and Defence Committee and the National Assembly Finance Committee with regards to control and control and oversight of the expenditure of budgetary resources allocated to Security and Intelligence Services and other actors engaged in the defence apparatus, as well as their responsibility to present their findings to the National Assembly and the public.
2. A programme for the additional technical training of members of the National Assembly engaged in the Security and Defence Committee and the National Assembly Finance Committee is necessary to enable them to execute effective control and control and oversight of the defence apparatus and the various actors therein.
3. A separate commission for control and oversight of the security services should be established within the framework of the Security and Defence Committee.
4. Guidelines on parliamentary control and control and oversight of the national security apparatus and the actors engaged therein should be published and made available to members of the National Assembly.
5. A medium-term programme and an annual plan should be produced for control and oversight of the national security apparatus by the Security and Defence Committee.
6. An annual plan for budgetary control of the security services and state actors in the national security apparatus by the Security and Defence Committee and the National Assembly Finance Committee should be produced.
7. Additional budgetary resources should be secured in order to establish a specialised expert panel for the Security and Defence Committee staffed by independent experts.
8. Amendments to existing legislation or a Governmental Decree should be enacted to ensure that all state institutions adhere to Article 77 of the Law on State Administration according to which any draft legislation that will "significantly change any part of the legal codex or which will cover issues of public interest" should be subject to public debate. The relevant institutions are obliged to provide the right conditions and allow enough time for such a debate.
9. The Law on the National Assembly and the National Assembly Rules of Procedure should determine the responsibilities of the Security and Defence

Committee with regards to the control and control and oversight of the application of police-like powers by private security companies.
10. Cooperation between the Security and Defence Committee and academic institutions and civil society think-tanks should be improved.
11. Occasional joint sessions between the Security and Defence Committee and other committees such as the Foreign Affairs Committee, the Judicial Committee and the Finance Committee should be encouraged.
12. A unified National Assembly Committee for Foreign Affairs, Security and Defence (to include the Ministry of Foreign Affairs, European Security Integration, the Military Security Agency and the Military Intelligence Agency) should be established, and a unified internal security committee (to include the Ministry of Interior, the Security Information Agency and private security companies) should be seriously considered.
13. A public relations strategy for the National Assembly should be created and adopted.

THE JUDICIARY

1. The amendment of, or an addendum to, the criminal proceedings legislation, and of the laws on civilian and military security and intelligence agencies, should be made in order to create procedures for the authorisation of the use of surveillance that temporarily deviate from the constitutionally guaranteed rights and freedoms of citizens. These changes to existing legislation should also cover judicial control and oversight of any measures authorised by the courts and the obligation of the judiciary to make the information gathered available to the citizens in question.
2. In further reforming the judiciary, special attention should be paid to the development of the role of courts and public prosecutors in the control of the armed forces, the police and the security services. An independent judiciary is a crucial precondition for for achieving effective control.
3. Training plans and programmes for the judiciary and prosecutors should be designed to improve knowledge on the control of actors engaged in the national security apparatus.
4. Reports by the courts and public prosecutors should contain information on the performance of specific forms of control of the armed forces, police and security services, including any difficulties encountered in exercising such control. This information should be made available to the public.
5. Public prosecutors' offices should pay particular attention to the effectiveness of prosecution and punishment of all illegal activity within the police, armed forces and security services and should, in a timely fashion, decide upon any compensation deemed necessary.
6. Courts should improve the decision-making process on the legality of ad-

ministrative measures adopted by police or armed forces institutions, including those measures intended to protect the rights of police officers or servicemen.

7. Judicial control should extend to the operations of detention centres and prisons, as well as customs services, the Tax Police and the Administration for the Prevention of Money Laundering, all of which are authorised to employ police-like powers.
8. Members of the Judicial Committee and the National Assembly administration should have the right to access court decisions that call for the use of special evidence gathering techniques.
9. The capacity of the Control and oversight Committee and the Complaints and Petitions Service of the Supreme Court of Serbia to quickly process claims should be increased

PRISONS

1. It is necessary to produce and adopt a strategy outlining the aims and tasks of incarceration institutions and forms of cooperation with all other institutions that can contribute to the successful reintroduction into society of individuals who have completed a prison sentence.
2. Resources sufficient for the application of alternative sentencing (suspended sentences, protective monitoring, community service etc.) should be made available.
3. A National Assembly Commission for the Control and oversight of Criminal Sentencing, along with the accompanying Rules of Procedure, should be established in the shortest possible time.
4. The report of the Administration for the Execution of Penitentiary Sanctions, including information on the financial operation of such institutions, should be made available to the public.
5. The Administration for the Execution of Penitentiary Sanctions should, by Governmental Decree, be required to regularly inform the public on the state of prisons and on any occurrences relevant to the safety of prisoners or the security of the community.
6. There needs to be marked improvement in prisoner conditions. Prisoners must also be informed of their rights with regards to the Supreme Court and other institutions and must have access to free legal advice should they wish to appeal any court decision. Furthermore, an ordinance should be passed to regulate the procedure according to which prisoners can file complaints.
7. The powers of the Republic Ombudsman and the Regional Ombudsman to deal with prisoner complaints should be improved, as should the ability of the civil society sector to exercise control and oversight over the execution of criminal sanction and the functioning of prisons.

8. It is necessary to protect the rights of prisoners from ethnic and religious minorities to use their own language, practice their religious customs and have access to special diets.
9. The manpower of the prison services should be expanded. All employees of the prison services should receive special training in the protection of prisoners' human rights.

Non-statutory actors that use force
PRIVATE SECURITY COMPANIES

1. New legislation should be passed in order to regulate the powers available to private security companies and to regulate their relations with state actors in the field of national security.
2. The new legislation on the private provision of security should regulate the conditions necessary for the issuing of licences to companies and individuals operating in the private security sector.
3. The National Security Strategy and the National Defence Strategy should clearly define the role of private security companies.
4. New legislation, or an amendment of existing legislation, is necessary to regulate cooperation between private and state actors in the field of national security.
5. Amendments to the Constitution, existing legislation and Rules of Procedure are required in order to define the authority of the National Assembly to exercise control and control and oversight over the way private security companies use weapons, apply force and employ covert surveillance techniques.
6. The standards required for the training and education of private security sector workers should be regulated by law. The training and educational programmes should include content on the protection of human rights.
7. The existing Law on Weapons and Ammunition should be amended in order to avoid deviations created by the application of the current law – such as lengthy verification procedures.
8. It is necessary to reaffirm legal obligations of the owners or managers of private security companies to fully comply with regulations governing the classification of information and the protection of personal information.
9. The operability of laws such as the Law on Freedom of Access to Information of Public Importance, the Law on Defence and the Law on Criminal Proceedings must be improved.
10. A central database of private security companies (whether as an independent body or as a department within the Ministry of Interior), which would maintain up-to-date information on the activities of private security compa-

nies, should be established.
11. On the basis of comparative research projects, it is necessary to encourage insurance companies to introduce premiums for high-quality security, i.e. penalties for low-quality security.
12. It is necessary to research public opinion with regards to the private security sector and to determine the level of public trust in private security companies.

Non-statutory actors that do not use force
CIVIL SOCIETY

1. National Security Strategy and Strategy of Defence should define the role of CSOs in the security and defence of the Republic of Serbia.
2. Existing laws governing the security sector and actors should be amended to create legal grounds for cooperation between CSOs and security system actors.
3. Legislative provisions should further regulate the competences, procedures, processes and instruments of the control and oversight of security sector and security system in the Republic of Serbia.
4. It is necessary to adopt the Law on Associations to regulate the activities and funding of CSOs.
5. Tax and import duty relief should be introduced for non-profit civil society organisations.
6. Civil society organisations can increase their creditability among the actors of security sector and the society by striving to upgrade their expertise for participation in the public control and oversight of security system.
7. An increased number of joint activities of CSOs will strengthen their influence and, in all likelihood, result in increased trust in their activities.
8. It is necessary that civil society organisations and other security sector actors pursue the development of measures and procedures which will increase the security system actors' trust in CSOs.
9. Civil society organisations can increase the trust of the representatives of security sector and the society if they raise the visibility level of their operations and financial transactions.

PART TWO

ANALYTICAL FRAMEWORK

1. Concept of Security Sector Reform

Filip Ejdus

Since it emerged from the donor and academic communities in the 1990s, the concept of Security Sector Reform (SSR) has been through numerous transformations.[4] SSR can be defined as "the process through which security sector actors adapt to the political and organizational demands of transformation."[5] The aim of SSR is "the efficient and effective provision of state and human security within a framework of democratic governance."[6] This definition of SSR has five main elements. First, *efficiency* which can be seen as the match between achieved results and means. Second, *effectiveness* can be defined as harmony between aims and achieved outcomes. Third, *human security* refers to freedom from fear and protection of human rights. Human security has two further aspects: freedom from chronic threats, such as murder, hunger, illness and repression; and protection from sudden and damaging disruptions in all aspects of life, either at home, in work or in the community.[7] Fourth, *national security* is defined as the preservation of territorial integrity, national independence and sovereignty, and the political stability of government institutions.[8] Fifth, *democratic governance* within the concept of SSR refers to legitimacy, representativeness, transparency, participativeness (participation of citizens), legality and accountability in the governing of the security sector. Thus, given the criteria of democratic governance SSR is not an easy, simple technical process of the reorganisation of the security sector. The concept of SSR also incorporates the values of liberal democracy and the efforts invested in the adoption of those values.[9]

[4] Michael Brzoska, *Development Donors and the Concept of Security Sector Reform* (Geneva: Democratic Control of Armed Forces – DCAF, 2003).

[5] Timothy Edmunds, *Security sector reform in transforming societies: Croatia, Serbia and Montenegro* (Manchester: Manchester University Press, 2007). (p.25)

[6] Heiner Hänggi, Conceptualizing Security Sector Reform and Reconstruction, p. 3, in Alan Bryden, Heiner Hänggi, *Reform and Reconstruction of the Security Sector,* Lit Verlag, Berlin, 2004.

[7] *United Nations Human Development Report 1994* (New York: Oxford University Press, 1994).

[8] Barry Buzan, *People, States and Fear: an agenda for International Security Studies in the Post-cold war era* (London: Prentice Hall, Harvester Wheatsheaf, 1991).

[9] Wilfried Bredow and Wilhelm N. German, *Assessing Success and -Practical needs and Theoretical Responses-DCAF Working Paper No.12 (*Geneva: Democratic Control of Armed Forces-DCAF, 2002) 162-174

The Elements of the Concept

Security sector reform is comprised of three elements. These elements, which are analysed in detail below, are *actors, context, aims and dimensions.* **Actors** of SSR are the organisations which are responsible for the protection of the state and society.[10] The researchers adopted an holistic approach to SSR[11] actors and divided them into four groups:

a. Statutory actors who have the right to use force *(military, police, intelligence service etc.)*	***c. Non-statutory actors who have the right to use force*** *(private security companies, paramilitary units, etc.)*
b. Statutory actors that do not have the right to use force (*parliament, judiciary, independent bodies, etc.)*	***d. Non-statutory actors that do not have the right to use force*** *(civil society organisations, media, universities, etc.)*

Table 9: Holistic matrix of security sector actors

The first group includes *statutory actors that have the right to use force,* such as the military, the police, the intelligence services and other governmental bodies which are authorised to use some police powers. These governmental apparatuses which have a monopoly over the legitimate use of power form the "hard core" of the security sector. The second group are *statutory actors that do not have the right to use power,* and are directly in charge of managing the security sector. These include parliament, government, the Ministry of Defence, the Ministry of Interior, the Ministry of Finance and the judiciary. These institutions are at the same time in charge of democratic civilian control and control and oversight of government apparatuses of power, and therefore have a central role for SSR. The third group of actors in the security sector are *non-statutory actors who have the right to use power*. These include private organisations which legitimately use force, such as private security companies, intelligence services

[10] Nicole Ball, *Spreading Good Practices [in] Security Sector Reform: Policy Options for the British Government* (London: Saferworld, 1998).

[11] For more on the difference between 'narrow' and 'broad' definitions of the security sector see: Timothy Edmunds, 'Security sector reform: Concepts and Implementation' in *Towards security sector reform in post Cold War Europe: A framework for assessment,* eds. Wilhelm N. Germann and Timothy Edmunds. (Baden-Baden: Nomos, 2002), 15–31.

and military companies.[12] Finally, the fourth group includes all civil society institutions which do not use force, but are involved in public control and oversight and discourse on security issues. These are civil society organisations (CSOs), the media, universities and social movements.[13]

The authors believe that a holistic approach has several advantages over one that analyses only the statutory actors directly in charge for providing security services (A and B in Table 1). Firstly, in practice, by not conceptualising SSR with civil society and the private security sector, it is impossible to fully capture the extent of demand for security in a pluralistic society, which consequently impacts upon the development of policies for reform. Secondly, the holistic approach creates better preconditions for a security system in which a coherent and consistent security policy is implemented. However, this approach has its flaws. The biggest challenge is to clearly define actors and clearly draw boundaries in order to avoid an approach which is too broad.[14]

Context is the second important element in Security Sector Reform (SSR). In the literature, three types of contexts are discussed - post-authoritarian, post-conflict and developmental.[15] Further, there is also SSR in developed countries. Each context provides its own set of particularities and problems. In the post-authoritarian context, the most important is the democratisation of the security sector, which includes the introduction of civilian and democratic control of the armed forces, the opening of secret files and lustration of former members of security sector directly involved in human rights abuses. Such issues were faced, for instance, by countries in Central and Eastern Europe after 1989. In the *post-conflict context*, the key task is the gradual pacification of the security sector, an issue that involves demobilisation, disarmament, reintegration, demining and prevention of proliferation of small and personal weapons. Lebanon and Bosnia and Herzegovina are examples of states which are facing such post-conflict problems. The *developmental* context is characteristic of economically under-developed countries. Under these circumstances, SSR is mostly focused

[12] Here, to an extent, we can include those private actors which use force illegally, such as organised criminal groups and terrorist groups, etc. These groups represent part of the so called 'unsecured sector' of the security sector and pose a threat to the state and individual security. We believe these should be singled out for special attention. These groups should be studied according to the degree they interact with the legitimate security system within the third group of the aforementioned actors (for example the connection of state security service and organised crime, integration of ex-terrorist organisations into the political system and so on).

[13] For the more detailed information, see *Directory of Organizations and Institutions interested for security topics/issues* (Belgrade: Center for Civil Military Relations 2008.)

[14] For example, the boundaries of the sector, could in theory include sexual education in elementary schools, because the health of the nation is also a part of the security sector.

[15] Heiner Hänggi, *Conceptualising Security Sector Reform and Reconstruction* (Geneva: Democratic Control of Armed Forces – DCAF, 2004), 275.

on the reduction of the security apparatus and a reallocation of funds.[16] In reality, many states, including those in the Western Balkans, face a combination of these problems. Serbia is no exception. Previous authoritarian systems - predecessors of the parliamentary democracy in Serbia - have left the country with a weak parliament, hidden centres of power within the security sector, and the infiltration of organised crime in the state. A further set of problems can be attributed to the legacy of four wars during the 1990s. First, there are unsolved security issues which, due to a lack of political will, threaten to further destabilise the region, including the unresolved status of Kosovo and Metohija and potential 'flare' points in south Serbia and the Sandzak region. Further, there are the problems with demobilisation, disarmament and reintegration, of both regular units and paramilitary units such as the Special Operations Unit and the so called 'Scorpions'. Members of the security community also have to confront past actions and war crimes. Finally, important quesions remain over Serbia's integration in Euro-Atlantic alliances.

The fourth context of transformation concerns economically developed countries. New, asymmetrical threats to security, such as global terrorism and the proliferation of weapons of mass destruction, have precipitated a transformation process of the armed forces in developed states. However, this research does not concentrate on these states. Nevertheless, it is relevant to the security sector in Serbia in terms of the technological gap between the capacity and compatibility of the Serbian Armed Forces and NATO and (established) EU member states, some of which are also undergoing a transformation process in military affairs.[17]

The next element of SSR can be described according to three principal aims: enlargement of security capacities; democratisation; and, economic development. However, these aims have the potential to be in conflict with each other. For example, the expansion of security capacities requires enormous material and social resources, which can be detrimental to economic development. Alternatively, a reduction of security capacities can accelerate economic development, but at the same time leave the security sector without adequate responses to deal with internal and external threats. Also, democratisation can temporarily weaken a state's security capacity. For example, in societies where

[16] State distribution of security to all its citizens corresponds with standards developed within the concept of 'good governance'. Incapability of the state to fulfil this function in distributing security as a public good, generates new security problems, because the state (in this case defined as 'weak' or ' ruined') endangers the security of all of its citizens and becomes the source of insecurity.

[17] In established democracies, the problem of executing democratic civilian control over the armed forces is still an issue, especially in the context of the use of domestic armed forces in missions under international authority (for example missions in Afghanistan and Iraq)

institutions are extremely weak[18], and civil society is undeveloped, opportunities can arise for domestic or foreign actors to abuse the main principles of democratic control. On the other hand, increasing the number of actors who have powers to gather security-related data, can actually reduce transparency, responsibility and legality of the security sector, and narrow the scope of human rights, endangering the process of democratisation. Thus, it is necessary to create adequate and specific priorities to achieve these aims. These priorities must be based on valid and objectively founded assessments of internal and external security challenges and risks, material and human capacities, as well as assessments of political processes in the broader social context. The authors believe that such a holistic approach to SSR is the most appropriate for such assessments and for describing a 'broader picture' about security sector.

Levels of analysis

In this research, the focus of SSR analysis is at the state and individual levels.[19] Local, regional and trans-regional analysis is not considered in this research.[20] The state level includes the security dynamics connected to the stability of institutions and the territorial sovereignty of the Republic of Serbia. The individual level includes security dynamics related to individuals who live or are based on the territory of the Republic of Serbia. This level of analysis has several advantages. First, it gives clear demarcation of the research topic. Second, it provides the potential for influencing policy formation processes and decision-making at the state level. However, by focusing on the individual, the research also underlines the fact that individuals must be the primary referential object of security. The state, or region, will not be safe unless all individuals present there are safe. However, the authors are aware that the security and political dynamics of the security sector in Serbia cannot be understood without reference to regional dynamics.[21] Certain security threats facing Serbia and its citizens exist at the regional level, and countries in the region need to cooperate in order to tackle such security issues. Thus, upon completion of the mapping of the secu-

[18] This referes to low levels of public trust in the institutions and the lack of socio-political cohesion between citizens and governmental institutions.

[19] In Anglo-Saxon literature those two levels are called national security and human security. See in: Burry Burzan, *People, State and Fear: and agenda for International Security in the post-cold war era,* London, Prentice Hall, Harvester Wheatsheaf, 1991) and Rolan Paris," Human Security:Paradigm Shift or Hot Air". International Security, Vol 26,no.2(2001): 87-102

[20] During 2009 CCMR in cooperation with DCAF and consortium of research organizations from the region of the Western Balkan, will conduct regional mapping and control and oversight of the SSR, using the methodology which is presented in this Yearbook

[21] The theory of regional security complex see at: Burry Burzan and Ole Weaver,*Regions and Powers: The Structure of International Security(*Cambridge: Cambridge University Press,2003)

rity sector in Serbia (phase one), the authors will apply the same instruments and methods to the regional level of the Western Balkans (phase two). The sub-national level (south of Serbia, Sandzak, etc) and the trans-regional level (the Euro-Atlantic region; EU, NATO and PfP) will be included in the research phases as a secondary level of analysis.[22]

[22] The example of trans- regional analysis of security sector see: David Law. Security Sector Reform in the Euro Atlantic region: unfinished business in *Reform and Reconstruction of the Security Sector* eds Alan Byden and Heiner Haggi(Geneva: DCAF. 2004)

An Approach to Mapping and Measuring Security Sector Reform

by Sonja Stojanović

A man who knows the price of everything, does not know the value of anything.
(Lord Darlington in *Lady Windermere's Fan*, by Oscar Wilde, 1896)

In this paper we will present the assumptions underlying the research conducted by the Centre for Civil-Military Relations team within the "Mapping and Monitoring Security Sector Reform in Serbia" project. The rationale for measuring Security Sector Reform (SSR) in Serbia will be explained in the first part. We will then go on to show how this rationale has influenced the shaping of the research topic, the method of measurement and the choice of criteria. For this purpose a brief overview of the method used in analysing the context of security sector reform will also be given, including a look at the effects of the findings on formulating the key research question. Next, we will describe the process of developing the Security Sector Reform Index (SSRI), including the challenges that the research team was faced with whilst testing the methods for measuring the progress of security sector reform in the case of Serbia. In addition, we will present some of the lessons learnt and dilemmas which arose while monitoring the trends and assessing the achievements of SSR in Serbia. Certain insights gained during the research are offered, as we believe they may be of use for the research and measurement of SSR in other countries. This paper concludes with an outline of the research team's plan for further future development of the methods presented.

The Rationale for Measuring the Progress of SSR

There were several distinct sets of reasons why the Centre's researchers decided to undertake the measurement of SSR progress. First, the intention was to make up for the lack of methods and instruments for monitoring and measuring the progress of reform across the security sector as a whole, from the perspective of the citizens of countries in transition. It was obvious that civil society organisations, not only in Serbia, lacked reliable methods and instruments for

monitoring the process and measuring the progress made in the reform of this sector. We were also inspired by the new concept of a holistic approach to security sector reform, which endeavours to treat the human/individual security and national security as equal goals of security policy, while acknowledging the contribution of both non-state and traditional state actors in the realisation of these goals. This is a relatively new concept which developed quite rapidly during the mid and late 1990s, predominantly in developed countries.[23] The concept was developed in the developed countries of the north inspired by the need to provide development assistance to post-conflict countries, as well as to act more coherently in the context of peace missions.[24] The concept of SSR was also inspired by the broad reforms undertaken in developed countries and known under the term of "new public management". One of the approaches recommended in these reforms was to develop the horizontal coordination of different state actors with the aim of finding suitable and optimal answers to contemporary security challenges, risks and threats.[25]

The other set of reasons for this research stems from the fact that the majority of methods and instruments used to assess SSR range are devised to suit donors' needs and interests. This applies equally to individual donor countries[26] and international organizations which endorse reform in candidate countries seeking membership (NATO, EU) or in their own member countries (OSCE, UN). This could be an explanation, at least in part, why none of these organisations

[23] For a good overview of the development of the concept of SSR see: Brzoska, M. (2000) 'The concept of security sector reform', in: BICC Brief 15 – Security Sector Reform (Bonn International Center for Conversion) and Brzoska, M. (2003). Development Donors and the Concept of Security Sector Reform, DCAF Geneva.

[24] The UN is developing a new concept of *integrated peace missions*, while NATO is working on a *comprehensive approach* to peace missions. For more details see Hanggi, Heiner and Scherrer, Vincenza (2008) 'Towards an Integrated Security Sector Reform Approach in UN Peace Operations', International Peacekeeping, Volume 15, Issue 4 August 2008, pp. 486 - 500

[25] See theoretical work on *joined-up governance* i.e., cooperation within state governance, look in: G. Peters (2003) Handbook of Public Administration (London: Sage). About the *whole-of-government approach to security policy reform,* see: Bailes, Alyson (2005). "Terrorism and the International Security Agenda since 2001." In Combating Terrorism and its Implications for the Security Sector, edited by Alyson Bailes et al. Geneva: Geneva Centre for the Democratic Control of the Armed Forces.

[26] The most conceptualization of security sector reform came from United Kingdom, the Netherlands and Germany. For the key sources from Great Bretain see: Jeniffer Sugden, „Security Sector Reform: the role of epistemic communities in the UK," Journal of Security Sector Management, Vol. 4, No. 4 (2006), http://www.ssronline.org/jofssm/index.cfm, yatim Safety, Security and Accessible Justice – Putting Policy into Practice (London: Departmenr for International Development, 2004). Za holandske modele videti: Nicole Ball, Tsjeard Bouta and Luc van de Goor, Enhancing Democratic Governance of the Security Sector: An Institutional Assessment Framework (The Hague: Netherlands. Ministry of Foregin Affairs, 2003) i Suzanne Verstegen, Luc van de Goor and Jeroen de Zeeuw. The stabillity assesment framework: designing integrated responsens for security, governance and development (The Hague: Netherlands. Ministry of Foreign Affairs, 2005).

have developed a comprehensive approach to measuring progress in security sector reform; or to be more precise, why they only draw their beneficiaries' attention to certain parts and aspects of SSR. For example, NATO has established numerous indicators for measuring the success of military and defence system reform. Conversely, the EU, in the course of its enlargement, focuses mostly on police reform and the reform of other bodies with certain police competences. Similarly, the OSCE and the Council of Europe mostly focus on assessing the extent to which human rights of ordinary citizens and employees in security forces are observed. Furthermore, the World Bank and the IMF focus on measuring good governance and progress in combating corruption across state security institutions, while the UN concentrates on security sector reform in the post-conflict context.[27] So far, the OECD has been the only organisation which has developed, in the *Handbook on Security Sector Reform: Supporting Security and Justice*[28] in 2007, guidelines and instruments for an implementation of holistic approach to SSR and for measuring its progress. However, these are primarily intended for donor countries which are members of the OECD Development Assistance Committee[29]. The Handbook contains guidelines that donors should follow in assisting security system reform in beneficiary countries. During the preparation of the Handbook, the authors consulted a large number of organisations and individuals from both underdeveloped countries and countries in transition. However, the fact remains that the methods and criteria described for the assessment of SSR progress are primarily tailored to donors' needs.

For this reason the Centre's research team has endeavoured over the past two years to develop methods first for mapping security sector reform, and then for measuring the progress of this reform in countries in transition, mostly from the standpoint of the needs and role of citizens and civil society. In accordance with this, the criteria for assessing progress in SSR were formulated with a view to monitoring the role that civil society should play in this reform. Therefore, the criteria should encompass and express the characteristics of the context in which SSR is carried out in the countries in transition.

The second important motive is to publicly advocate - based on clearly set criteria and empirical data - for greater democratic governance in the security sector, as well as for increased efficiency and effectiveness in providing national and individual security in Serbia. The guiding principle here is the claim that

[27] For a detailed list of standards and models for the SSR promoted by different international organizations, look in: Law, D. (ed.) (2007) *Intergovernmental Organisations and Security Sector Reform* (DCAF).

[28] *OECD-DAC Handbook on Security System Reform (SSR) Supporting Security and Justice* (2007) available at: www.oecd.org/dac/conflict/if-ssr

[29] DAC-Development Assistance Committee is the main body within which the OECD member countries coordinate their assistance programs (www.oecd.org/dac)

"What gets measured, gets managed."[30] This claim is based on the assumption that the main problems in SSR, as well as the correlations between these identified problems, the measures undertaken and their results, can only be identified during such an evaluation process. Therefore, measuring should provide better insight into actual problems in Serbia's SSR and assist with development of the corresponding recommendations for improving security sector governance. Another assumption is that the attention of the government and the public can only be drawn to the reform process and potential setbacks in its course once regular monitoring and assessment of progress across the entire sector has been conducted.

In accordance with the points mentioned above, we hope that the publication of the results of this research will create favourable conditions for a public debate about improving the security sector governance. The results could further be used as an empirical and objective starting point for a debate about the contribution of current agents of power to SSR progress, or about their responsibility for potential setbacks and delays in the process. This should also help reduce the scope for the politicisation and securitisation of public demands for the regular monitoring and assessment of SSR progress. This is of great importance, as SSR belongs to the domain of *high politics*[31], i.e., a public policy domain which is of particular importance for the sovereignty of a state and the protection of its citizens' national identity. It is different from so-called *low politics*, i.e., public policies dealing with issues affecting citizens' daily lives, in which the authorities are generally more willing to allow the results of their actions to be brought under public scrutiny and to accept that some of their competencies might be limited in the process of international integrations. National security and foreign affairs policies generally fall into the category of *high politics*. As these deal with the preservation of the physical existence of the (political) community, they are often exempt from public scrutiny. These policies are difficult to be put under public scrutiny as they more easily trigger emotions, prejudice, beliefs and ideology laden arguments than rational evidence-based discussion. Therefore, we expect to create environment for a debate on these topics to be based on rational arguments by putting forward evidence which has been collected in a systematic manner and clear criteria for measuring the success or failure of each policy. This is particularly important for young democracies such as Serbia which do not have a long tradition of citizen participation in the control and oversight of the security sector and where traditional security actors benefit more from improved public reputation and experience than civil society

[30] „What gets measured gets managed", quoted from reviewed text on performance measurement ant its shortcomings in the reform of new public administration in: Christopher Pollitt, „How Do We Know How Good Public Services Are," in Governance for the Twentz-First Century, eds., B. Guy Peters and Donald J. Savoie (Montreal: McGill-Queen's University Press, 2000), 121.

[31] Hoffmann, S. (1966) 'Obstinate or Obsolete? The Fate of the Nation State and the Case of Western Europe.' *Daedalus*. No. 95, pp. 892-908.

organisations. The results of this research and the Index model could contribute to the increased visibility of civil society organisations amongst the expert and general public in Serbia. They could also, if such expert evaluation justifies their validity, instigate a public debate on the desirable goals of SSR in Serbia.

The Centre's research team has not given up on the ambition to contribute to the academic pool of knowledge by devising and analysing methods for measuring the effectiveness of SSR. This refers particularly to findings about the multiple interconnections between the level of SSR and the processes of democratisation and economic development in a society. Academic research generally aims to identify and determine the specific features of certain processes in one state and to uncover and explain their similarities with the same processes taking place in other states, e.g., those underway in states in transition. For this reason, when methods for measuring the progress of SSR were being devised, great attention was given to analysing the specificities of this process in Serbia. Consequently, a great share of the research focused on the context analysis in order to fully examine the impact of local political events on SSR. At the same time, great attention was paid to determining whether the same procedures and instruments are applicable, i.e., verifiable (when submitted to falsification) in other countries as well. We tried, to the best of our abilities, to formulate the criteria and indicators in the SSR Index in such a way that they can be used in other country settings. The primary aim of this publication is to contribute to the development of practical policies in Serbia. However, we hope that the empirical data and insights presented in the publication will raise readers' awareness about the potential difficulties occurring in measuring the process, as well as encourage further academic research on the SSR process in states in transition.

To sum up, the aim of devising the SSR Index was to devise a combination of qualitative and quantitative research methods in order to expose the dynamics of SSR, identify its "critical points" and provide tools for the longitudinal tracking of this process in Serbia and other countries. We opted for a two-phase methodology in order to establish a measuring system which would reflect the specificities of the reform process in the state we were analysing and enable the comparison with reforms in other states. The first phase of empirical research involves the analysis of a wider social context of SSR. The second phase involves the application of the SSRI model to the reform of this sector in Serbia.

The Analysis of the SSR Context

If we accept the fact that SSR is primarily a political process which has been taking place in many countries at an uneven pace, then we also need to analyse and understand the local context in which reform is being carried out. Despite the fact that both security and political dynamics in a country are largely determined by international and regional contexts, the meaning of security chal-

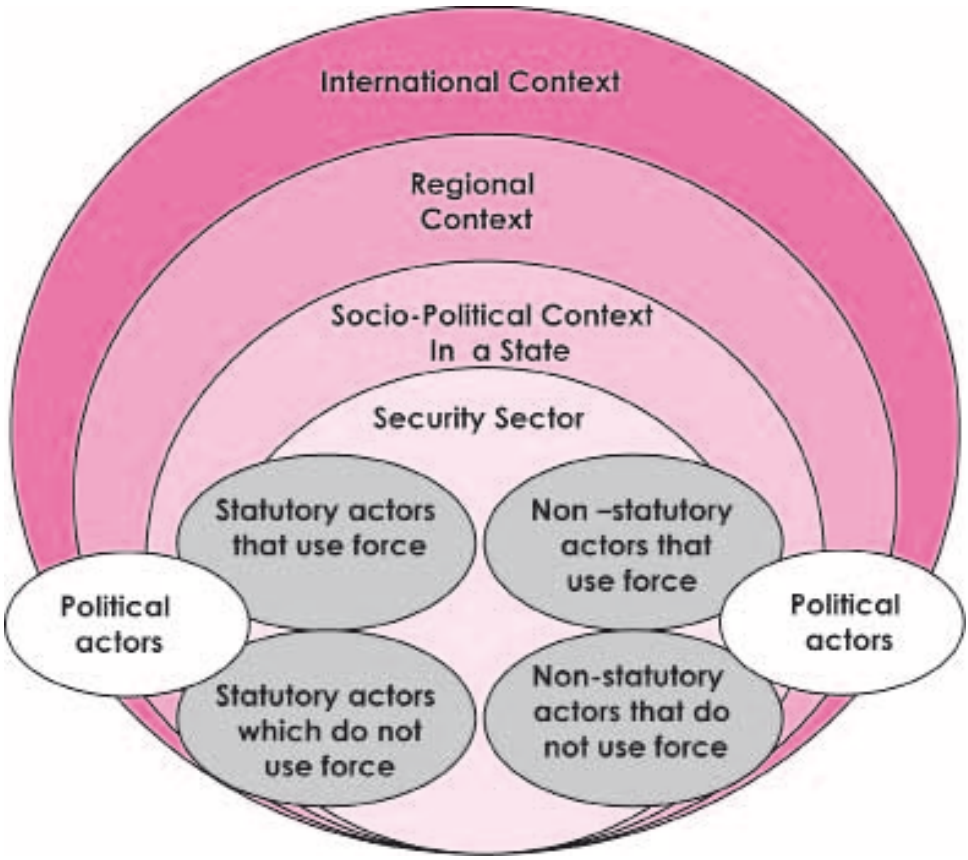
lenges, risks and threats, as well as the need to find potential solutions to them, is mostly defined at the level of the political community, which, in the European context, is represented by the state. As this is the first attempt at mapping and assessing SSR progress in Serbia, only the local context was analysed in the pilot-phase of the project. If the project continues, a wider (regional) context will be analysed over the coming phases, including the evaluation of the EU and NATO policy of pre-conditioning. For this reason, the model method for carrying out a SSR context analysis will be presented (based on literature review) in further text . The results of its application to the context of SSR in Serbia are presented in the text by Miroslav Hadzic[32] which is included in this publication.

The analysis of the SSR context within a state is usually carried out on three levels. The wider socio-political context is analysed first. This is followed by an analysis of the dynamics and main characteristics of the security sector, as well as their constituting elements. The actions of key political actors are analysed last. The rationale for a three-level approach is that progress or delays in SSR cannot be measured out of context, nor solely on the basis of an ideal model of reform. The interpretation and measurement of the level of reform depend mostly on the political legacy, types of actors and their motives for selecting a specific security policy.

We would like to emphasise that our interpretation of the term 'key political actors' is somewhat different from Hanggi's[33] interpretation. He identified four groups of institutions and actors by placing them on a two-dimensional scale: state and non-state, the ones using force and the ones not using force. The Centre's research team adopted and used this classification in measuring SSR progress in Serbia. Nonetheless, in the context analysis, and unlike Hanggi, we classified as political actors all social groups which actively participate in defining and implementing security policies – from political parties and business elites, professional stakeholders within the security sector, to organised groups which monitor their activities. This implies that all formal and informal groups which may influence political decision-making in the field of SSR, i.e., groups which may either support or obstruct reform out of their own interest, were also regarded as political actors. This is important to note, as the underlying assumption of this research was that SSR trends in Serbia were only partly influenced by the situation at the begining of transition, which means that the local political actors were powerful enough and able to mould this situation according to their own concept of SSR.

[32] Text M. Hadžić, p. 105.

[33] Text F. Ejdus, p. 65.



Scheme1: Levels of the SSR context analysis

1. Characteristics of the socio-political context

If the entire security sector and the dynamics of change within it are to be included in the measurement of SSR progress, it is necessary to first analyse the wider socio-political context in which this sector has developed and is being reformed.[34] A list of the key features of the given context should be compiled

[34] For detailed parameters for the scanning of the socio-political context in OECD,DAC see: *The Handbook on Security System Reform – Supporting Security and Justice* (2007), str. 50-57 i Verstegen, S., van de Goor, L. and de Zeuuw (2005), *The Stability Assessment Framework: Designing Integrated Responses for Security, Governance and Development* (The Hague: Clingendael Institute for the Netherlands Ministry of Foreign Affairs), pp. 25-35 and 46-48

on the basis of this analysis.[35] In other words, the results of this analysis should make it possible to answer four key questions, which, once they are answered, can and should be further sub-divided:

1. What is the security context like? Is the country in question enjoying the benefits of a long period of peace or has it recently experienced an externally imposed or internal conflict? What are the consequences of that conflict on the society and how are these manifested across the security sector?
2. What is the political context (Does the state exist or is it in the making? What is the type of rule? To what extent are human rights and freedoms protected and exercised? What is the level of autonomy and development of civil society? What marginalised groups are there, etc.)?
3. What is the level of economic development (What are the obstacles to economic development? Does spending on the state bodies operating in the security sector affect the provision of other public assets? Is there widespread corruption? What are the differences in economic development across the country, etc.)?
4. Is there a "demand" for security sector reform? And if such a demand exists, what part or goal of the reform matters most to the public (citizens)?[36] Who creates expectations from SSR in the public discourse and what are these?

A chronology of reform should be drawn up, based on the answers provided to the questions above, with clearly defined key phases and turning points which have influenced the current context of reform. Only a few key phases and events from the recent past, in which the political and/or public expectations of the security sector as a whole and of its constituent parts were negotiated and formulated should be defined, provided that a zero point has been determined. To determine the periodisation of the reform, "specific threshold" and "tipping points"[37] - marking significant changes in the perception of the local security

[35] Researchers from the Dutch Intitute of International Relations Clingendel have developed a trend analysis using 12 key indicators to determine the degree and nature of (in)stability in a society: (1) indicators of good governance: (a) state legitimacy, (b) provision of public services, (c) the rule of law and human rights, (d) leadership models – the elite; (2) security indicators: (a) security apparatus, (b) regional environment; (3) socio-economic indicators: (a) demographic pressure, (b) refugees and internally displaced persons, (c) hostility stemming from group identity (d) emigration from the country, (e) economic opportunities for all groups, (f) the state of economy. Source: Verstegen, S., van de Goor, L. and de Zeuuw (2005), *The Stability Assessment Framework: Designing Integrated Responses for Security, Governance and Development* (The Hague: Clingendael Institute for the Netherlands Ministry of Foreign Affairs), p. 26

[36] Look for a more detailed questionnaire in the OECD DAC Handbook on Security System Reform – Supporting Security and Justice (2007), pp. 52-56 for (a) the analysis of conflicts and political economy, (b) capacity and type of management of judicial and security institutions, (c) the need of people, especially the poor, for security and justice.

[37] Terminology was borrowed from transition theories and in English these terms are as follows: *specific tresholds* , *tipping points* and *critical junctures*..

sector and/or in the course of national security policy - should be identified in the processes of political transformation. In identifying the tipping points, formal developments in the political system, such as peace treaties, the adoption of a new constitution or elections which marked a turning point in society are to be taken into consideration. Changes in citizens' expectations of the security sector should also be recorded, as well as any changes in the degree of the sector's legitimacy. Variations in the degree of legitimacy of the security sector and its actors could then be interpreted as an important indicator of change in the public demand for reform.

Changes in the "demand for reform" in a given country can be identified by analysing the results of local public opinion polls and by applying the securitisation theory (Buzan et al. 1998) to political processes. This should help determine when and how SSR became a part of the state (national) policy agenda. Consequently, based on the findings of specialised public polls[38] and of the sections of regular public polls examining citizens' confidence in the state institutions, it is possible to assess citizens' attitudes about the (il)legitimacy of the security sector, what they expect from the changes and what their reactions to changes are. This approach is in keeping with the normative assumption of the SSR concept, which postulates that reform should enable the fulfilment of citizens' rights and needs for security in accordance with the concept of human security. An analysis of the distribution of the trends and attitudes expressed in public surveys will also show what significance the respondents (citizens) give to SSR, and if they consider it as more important than reforms in other state government sectors.

The degree of the security sector's legitimacy is also an indicator of how much "social" capital the enactors of the reform have at their disposal, that is, how much patience the public will show and how much room for manoeuvre the elites have at the beginning of the transition.

The findings collated from the public opinion research can be of great assistance in interpreting the political elites' prioritising in SSR. Answers can be provided as to why the agents of power considered some changes in the parts of the sector as less important and therefore did not initiate them at all. For example, the indifference of the new authorities in Serbia after 2000 with regard to the civilian protection sector reform or to the legal regulation of the private security sector status can be at least partially explained by the fact that the public did not find these topic to be of great significance, nor were these issues perceived as a threat to their security. Consequently, these topics are not easily securitised, unlike the ones pertaining to the military, police or intelligence services' reforms. During the early transition period, the Serbian public viewed the police, the intelligence services and the military top ranks as the

[38] In Serbia these include public surveys on the military reform, security issues, and Euro-Atlantic security integrations which the CCMR conducted in 2003-2005, victimological reaserch carried out by the Serbian Victimological Society, the research conducted on the police activities which was commissioned by the OSCE in 2002 and 2008, etc.

main mechanisms of repression of the previous regime. The public thus expected and demanded that they be rapidly and radically reformed. Conversely, the area of civilian protection remained removed from public scrutiny up until great incidents and natural disasters occured, such as the explosion in the ammunition warehouse in Paracin in 2007 or the floods in 2006.

An analysis of the dominant processes of securitisation in Serbia should be added to the findings of the public polls in order to get a valid insight into the nature and the characteristics of the context. Securitisation is understood here as a discursive process, whereby a specific situation is labelled as a security threat to the existence of the political community, which entails the need to resort to extraordinary measures (which are not applied under ordinary political circumstances)[39]. The analysis of the key securitising actors, types of threats and required special measures provides greater insight into the trends and mechanisms of the legitimisation of reforms, as well as into the ways some actors of the reform gain public authority.[40] The fact that we are talking about a turbulent transitional period in which, in shaping a new common identity, the agents of transition lead intensive debates on numerous social norms – only adds to the importance of applying this approach. The Centre's assumption, based on all the points mentioned above, is that SSR cannot be objectively measured on the basis of visible material indicators only. To understand and measure SSR it is necessary to bear in mind the fact that both the security threats and the reform priorities are constructs which are shaped by the discursive actions undertaken by the local actors. For this reason it is difficult to measure and describe the complex political nature of this process and the contradictory trends within it by using exclusively material indicators.

Lastly, the analysis of the socio-political context should help establish which are the dominant processes to have influenced the shaping of SSR in a country. Is it mainly a post-conflict, post-authoritarian, developmental or a strong-state context?[41] A combination of contexts is also possible as long as the dynamics and the mechanisms which influence these processes are explained as precisely and thoroughly as possible for the country at stake. A wider socio-political analysis should provide a brief periodisation and an analysis of the key events or *tipping points* from the recent past which have influenced citizens' expectations and the capacity of political actors to guide reform at the present moment. This analysis should also shed light on the resonance of the reforms among the public, the security sector and the public discourse.

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[39] Buzan, B., Waever, O. and de Wilde, J. (1998) *Security: A New Framework For Analysis*. (London/ Boulder: Lynne Rienner).

[40] Loader, I. (2002), 'Policing, securitization and democratization in Europe', *Criminal Justice*, 2 (2), pp. 125-153.

[41] For potential contexts of reform, see table SSR. For more information about Hanggi's definition of the four possible contexts, see text about the SSR concept. For further information about the difficulties of their operationalisation in the case of Serbia, see text about SSR context.

2. Sector Analysis

In the next stage we "step away" from the socio-political level and delve into the analysis of the characteristics pertaining to the security sector and their relation to the rest of the state administration, as well as towards the analysis of the sector's internal dynamics. This analysis should result in:

1) a list of all statutory and non-statutory actors across the security sector,
2) a description of the current state and types of relations across the sector, particularly between those who have power and its civilian counterpart[42],
3) an assessment of each group of actors' capacity,
4) an overview of each group of actors' field of expertise and
5) an outline of the dominant patterns of sector management and the management of each separate group of actors

By analysing the existing capacity and expertise we are trying to indentify the type, scope and quality of the material, financial and human resources which the sector and its actors have at disposal. Institutional framework within which the state administration operates has to be determined as well. That should help identify both potential obstacles to and opportunities for reform. The analysis of quality of governance provides an insight into the level of democracy within the sector, as a closer examination of "the relations across security institutions, wider governmental apparatuses and the public" reveals "the level of clarity, openness and responsiveness of state apparatuses to the needs of citizens."[43] The OECD manual[44] provides additional parameters for determining the level of democracy in relations across the sector, such as: responsibility, legitimacy (trust), autonomy (de-politicisation), rule of law, system of control and balance (distribution of power), horizontal responsibility and participation (opportunity for citizens to influence the formulation, implementation and evaluation of the policy in this field).

The following step in this type of analysis is to determine the specific features of the organisation and practical management within the security sector that distinguish it from the rest of state administration. For example, the security sector in all countries is characterised by a special relation between professionals and civilian decision-makers. The reason for this is that the former have specialised knowledge and skills which the latter cannot acquire easily. Consequently, the professionals can greatly influence the process, scope and aims of SSR. This is particularly evident in a post-authoritarian reform context,

[42] But should describe and unwritten power relations between the military and police, security intelligence agencies and the rest of the sector. This can be visually illustrated by circles of different sizes, which reflect the relative power of different parts within the security sector, which is an integral part of the mapping sector.

[43] DFID (*Safety and Accessible Justice - Putting Policy into Practice (*London) p. 18

[44] *OECD-DAC* Handbook on Security System Reform (SSR) Supporting Security and Justice (2007) p 54.73

CONTEXT	DOMINANT ACTORS	THREATS	PRIORITIES
Post-authoritarian	▪ Statutory actors that use force ▪ Political parties or groups which participated in the change of power (so-called opposition), and the elite from the former regime ▪ Actors that are less visible or developed ▪ Statutory actors that do not use force (particularly those in charge of control) e.g., the judiciary and other independent institutions, legislative bodies ▪ Civil society	▪ Danger of re-establishing the old regime ▪ Illegitimacy of statutory actors that use force ▪ Systemic violation of human rights	▪ Primary goal: democratisation of society ▪ Depolitisation of statutory actors, primarily those that use force ▪ Development of institutions for control and control and oversight ▪ Lustration and processing of human rights violations
Pre-conflict	▪ Non-statutory actors that use force (paramilitary formations) ▪ Political and economic elites who benefit from conflicts ▪ External actors (e.g., private military companies...)	▪ Ethnic/religious tensions ▪ Separatist tendencies	▪ Armed conflict prevention ▪ Civilian rights protection ▪ Demilitarization of society and provision of public safety
Conflict (it is disputable whether SSR can actually take place during conflict, in the absence of a democratic system)	▪ Non-statutory actors that use force (paramilitary formations) ▪ External actors (foreign, private military companies, peace-keeping missions and intermediaries...) ▪ Crime syndicates connected to main participants in the conflict	▪ Demonopolisation of power and the absence of rule ▪ War crimes ▪ Internal displacement of civilians	▪ Termination of conflicts ▪ Protection of civilian rights (refugees, displaced persons) ▪ Demobilization and disarmament ▪ Establishment of control
Post-conflict	▪ Statutory and non-statutory actors that use force(paramilitary formations) ▪ External actors ▪ Veterans (these actors lack visibility just as much as those in the post-authoritarian context)	▪ A lot of armament in the possession of civilians ▪ Mining of territories ▪ Refugees and expelled persons ▪ Lack of effective control over the whole territory ▪ Crime related to specific groups in conflict ▪ Privatisation of the security	▪ Primary goal: transition from violence and armed conflict to peace ▪ Demobilization and disarmament ▪ Reintegration of veterans in the civilian life ▪ Demining ▪ Demilitarization of the society and provision of public security ▪ Increased presence of minorities and other marginalized groups among the statutory actors that use force ▪ Transitional justice (war crime courts, trust committees, lustration across statutory actors)

Integration	▪ Executive bodies ▪ External actors such as the Council of Europe, EU, NATO - whose conditionality requires the fulfilment of the criteria for membership ▪ Civil society	▪ Loss of identity (vertical threats) ▪ Neglect of democratisation and focus on ways to increase the efficiency and effectiveness of security management	▪ Primary goal: membership in international organisations ▪ Interoperability of armed forces participation in peace-keeping operations outside your own territory ▪ Increasingly important role of international cooperation in security policy management
Developmental	▪ Statutory actors that use force ▪ External actors (especially the World Bank, the IMF, who condition economic support upon political criteria)	▪ Socio–economic problems, especially poverty issues ▪ Excessive military expenditure and inefficient management of statutory actors that use force, as well as insufficient provision of public security	▪ Primary goal: transition from an underdeveloped to a developed economy
Strong state	▪ Statutory actors that do not use force ▪ Non-statutory actors both using and not using force	▪ New challenges, risks and threats (crime, terrorism, global warming…) ▪ Alienation of citizens from statutory actors that use force	▪ Introduction of reforms aimed at improving the efficiency of security management ▪ Reforms stemming from the need to take action outside the state territory (new generation of peace-keeping missions) ▪ New forms of civil-military cooperation both inside the country and (e.g., the police in the local community) and abroad (integrated peace-keeping missions)
State building	▪ Elites which have "won" the status of the state ▪ Actors which use force and have participated in acquiring the state ▪ External actors (protectorate and peace-keeping missions)	▪ Inability to govern the entire territory ▪ External and internal lack of legitimacy	▪ Institution building (e.g., army forces or ministries that did not exist before) ▪ Gaining international recognition (e.g., via membership in some organisations)

Table 10: Characteristics of different types of SSR context

as the entire security-related education in an undemocratic society is regulated within a closed educational and training system run by the military, the police and intelligence services. Therefore, it is to be expected that new political decision-makers in the security sector, particularly civilian heads of governmental apparatuses of power, do not always possess sufficient knowledge to manage the reform successfully. In addition, the level of transparency of statutory actors' work in the security sector is always lower than in the rest of public administration institutions. The differences in management style in the security sector and the rest of governmental institutions are even more evident in cases where there is a combination of post-authoritarian and post-conflict contexts or in the context of a weak state. It is common in such contexts that statutory actors that use power were not only exempt from public scrutiny but were also granted privileges and were highly politicised, being one of the key instruments of the non-democratic governance.

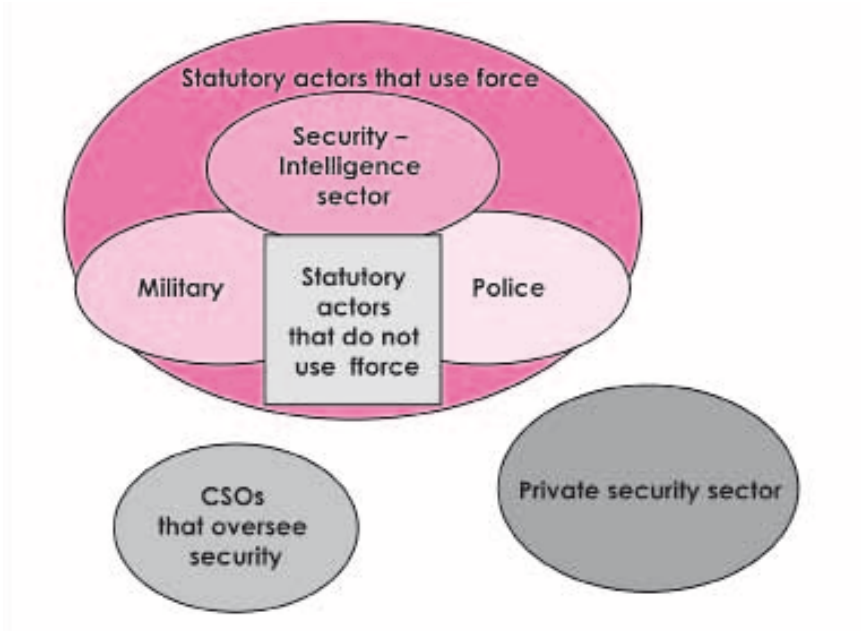
The purpose of the security sector analysis is also to identify and register differences among various entities (units) that comprise it. For this reason, the analysis should take into account both formal characteristics of the sector and its actors (such as the existence of an adequate judicial system) and the informal ones (the predominant organisational culture, the prestige of particular professional groups within the sector, etc.). For instance, the Serbian public has traditionally laid greater trust in the military than in any other segment of the security sector, greater than in some civilian institutions such as the government or the parliament. In order to understand the specific differences among the actors in this sector, it is necessary to conduct additional analysis of the institutional heritage of each of the actors within the sector, which would shed more light on their performance (the number of personnel, the level of training, equipment, legal regulations, etc.) and informal characteristics of management. A deeper insight into the "logic of an appropriate/desirable"[45] management in these institutions will enable us to identify reasons for the internal blockade or unconsolidated reform, particularly in cases where a formal framework for the reform exists (competent institutions and legislation)[46]. For example, despite the fact that centralised decision-making within the MoI was criticised after democratic reforms had been carried out, broad administrative competencies of the MoI[47]

[45] March, G.J. and Olsen, P.J. 'Elaborating the"New Institutionalism".Arena Working Papers, (2005). Available at: http://www.arena.uio.no/publications/working-papers2005/papers/wp05_11.pdf

[46] Jacoby, W (2001)" Tutors and Pupils: International Organizations, Central European Elites, and Western Models" Governance,14,92) p 169-200

[47] Administrative authorities comprise a broad range of activities: from the registration of civil society organisations and public gatherings, to the issuing of travel documents and ID cards, the maintenance of the registers of citizens and other public documents.

preserved their "logic of appropriateness"[48] for quite a while after the process of democratisation had started in the successor states of SFRY. This can be explained by the corporative nature of the newly formed political communities. In all post-Yugoslav states, citizens' view of the police as the most efficient institution of central administration which should continue with providing administrative services[49] in a uniform way has "survived", instead of decentralising and delegating these services to local municipal authorities. The expectation that "legitimacy comes from above"[50], that is, from a centralised government, is a key characteristic of the continental police system and its logic in terms of organisation has been present in Serbian police to this day.



Graphic illustration of the actors' capacity and their relations

It should be added that all relevant and available public sources pertaining to this sector should be listed at the onset of the research, in order to identify

[48] March, G.J. and Olsen, P.J. (2005) 'Elaborating the "new institutionalism". [online] *Arena Working Papers,* 11/2005. Available at: http://www.arena.uio.no/publications/working-papers2005/papers/05_11.xml

[49] Issuing identity cards, residential registration and similar.

[50] Arianit Koci, "Legitimation and culturalism: towards policing changes in the European 'post-socialist' countries", in *Policing in Central And Eastern Europe: Comparing Firsthand Knowledge with Experience from the West*, ed. Milan Pagon (Ljubljana: college of police and Security studies, 1996).

specific characteristics of the security sector in question. Bibliographies of the reform of each segment of the security sector should follow. Detailed bibliographies and the review of the existing literature in a given country are not only an effective way of collecting data, but also useful sources of information regarding local authors' views of the importance of SSR. In addition, a chronology of the reform of the entire security sector should be drawn up, as well as detailed chronologies of each of its constituent parts' reform (E.g. military reform chronology, police reform chronology, etc.). This will all make possible to determine the particularities of the narrower (micro) contexts in which reform of each of the actors was carried out. This will, in turn, facilitate the analysis of characteristic political dynamics across different segments of the security sector and the establishing of benchmarks for measuring the progress by means of utilising the SSR Index. Similarly, by examining the reform in a short historical span, we endeavoured to pinpoint the demands of the reform. There has to be a period of time before the results of the reform become evident, that is, visible to a wider public. Along the same lines, the expectations that the public has of various institutions can be dramatically altered in the periods of crises or after dramatic events. The mini-analyses of reform contexts for each of the actors will enable us to link actors' political decisions with institutional changes.

CCMR researchers particularly focused on analysing the contexts in which reform of each of the actors had been carried out in order to gain a greater insight into the dynamics of the security sector. The purpose of this approach was to facilitate the researchers' better understanding of different starting positions from which the actors whose progress was measured had undertaken the reform process. It is for this reason that each chapter on specific actors' reform opens with a summary of their heritage and of the micro-context in which it had been carried out. By analysing the micro-context we tried to determine if there had been public demand for the reform of a given sector. We also tried to establish if there had been any threats that were specifically securitised in this segment of public policy and which important institutional and political changes had occurred since the beginning of the transition. Most importantly, a description of the trends and a list of the previous changes enabled the researchers to establish benchmarks against which subsequent progress would be measured for each of the actors.

3. Analysis of the SSR political actors

This analysis should encompass all key political actors who have the power of official or unofficial decision-making with regard to SSR, that is, to influence its implementation, or the absence of it. The list of political actors will of course differ from country to country, but might include political parties, churches, unions, crime syndicates, paramilitary units and various stakeholders within state apparatuses of power. For the analysis of key political actors to be valid and to

provide insight into the potential and motives for action of each actor, it should be based on the following indicators[51]:

1) Type of actor (statutory or unstatutory)
2) Actor's interest (political agenda) or their motivation to contribute to stability, instability or internal conflicts
3) Type of strategy and/or usual methods which the actor applies in order to achieve its goals (special attention should be paid to their tendency to use force and violate human rights of all citizens or specific groups)
4) Potential (available financial assets, armament, control over a part of territory, group cohesion, type of leadership, type of expertise, possibilities for networking, etc.)
5) Main relations with other actors (who are the allies/opponents, ability to gain support or politically mobilize certain groups of citizens, what their social and political base is)

Type of actors	Interests	Strategies	Potential	Relations
Government, political system (democratic, authoritarian, etc.)	Political orientation (socialist, neo-liberal, etc.) Motivation (E.g. economic gain)	Methods of political action and governance Respect of human rights Democratic credentials	The size of support base Group cohesion Material resources Capacity to stop, slow down or delay reform	Main allies Main opponents

Table 11: Analysis of political actors

By using the results of such analysis, it will be possible to determine whether and in what manner the inherited state (citizens' expectations, material and human resources, good governance models) was changed as a result of intervention of different political actors. Consequently, when creating lists of actors, it is important to determine if any of the actors have been omitted or excessively

[51] Suzanne Verstegen, Luc van de Goor and Jereon de Zeeuw, *The stabillity assessment framework: designing integrated responses for security, governance and development* (The Hague: Netherlands Ministry of Foreign Affairs, 2005), 46-48.

present on the list. It should further be determined if any of them can be a "veto player", that is, which of them are "agents of change". Finally, it is also realistic to assume that a number of actors and the extent of their influence can at certain point indicate the presence or absence of difficulties in the reform process. For example, it is often said that without civil society organisations which have the know-how and skills to carry out public control and oversight over the security sector, there can be no adequate democratic control. It is also often believed that some interest groups, comprised of members of governmental apparatuses that have the right to use power, might constitute "veto players" in the reform process, since they hold the power and knowledge. Some authors claim that intelligence circles had the greatest influence over political decision-makers before and after the fall of Milosevic's regime, and were thus in a position to block reforms.[52]

However, such claims are not easily substantiated with hard evidence. That is why the biggest obstacle for researchers in carrying out their analysis is the lack of solid and publicly available data on actors' actions as well as an insufficient timeframe. Consequently, this part of the analysis usually ends with a list of actors and descriptions of their potential, based on the opinions and findings of general public and experts.

The Key Research Question

The results obtained from the analysis of the wider socio-political and security sector contexts, as well as from the analysis of key political actors should facilitate the precise identification of the dominant context in which SSR is carried out. Once that context is identified it then becomes possible to determine with certainty which generation of reform is being undertaken in a given country.[53] For this purpose we will adopt Timothy Edmunds's theory that there are a first and a second generation of SSR. According to Edmunds, the first generation includes putting in place constitutional norms, basic laws and structures necessary for putting security sector under the control of democratically elected civil authorities. However, this is just one of the first steps in the democratisation process. The focus of the reform in the first generation is on the establishment of formal structures of civilian control as well as on a clearer division of competencies among different actors within the security sector, which would also result in

[52] Andreas, P. (2004) 'Criminalized Legacies of War The Clandestine Political Economy of the Western Balkans.' *Problems of Post-Communism*, 51 (3) May/June,str.3–9 i Shentov, O., Todorov, B. and Stoyanov, A. (2004) *Partners in Crime – The Risks of Symbiosis between the Security Sector and Organized Crime in Southeast Europe*, (Sofia: Centre for the Study of Democracy).

[53] Edmunds, T. (2003) 'Security sector reform: concepts and implementation', in German, W. N. and Edmunds, T. (eds.) *Towards Security Sector Reform in Post Cold War Europe: A Framework for Assessment* (DCAF / BICC), pp. 11-25.

setting the foundation for democratic control within the sector. In addition, the demilitarisation and depoliticisation of the security sector governance should also take place during the first generation. These steps seek to remove the potential danger arising from the fact that the state or non-state using force might jeopardise the democratic functioning of the political community in question.

The second generation of reforms coincides with the process of democratic consolidation.[54] Of course, this only applies if the process of state creation is completed in the given community, that is, that all threats to its sovereignty have been removed. If that is the case, it is expected that during the second generation civil society, which has been empowered, will become an active participant of democratic civilian control and control and oversight, alongside politicians. This would considerably contribute to the social legitimisation of security institutions in society. It is equally expected that the first generation reforms will be consolidated at lower levels of management and that the mid-managers will identify with the reform. Fundamental democratic values should in effect become part of the organisational and professional culture of state actors using force. These organisations should act on the principles of political and interest neutrality in the future. The key question in this phase is not whether the security sector should be reformed or why, but how to accomplish reform in the most efficient and effective way. It is therefore necessary, in order to consolidate the first generation reforms, to build the so-called administrative capacities of state agencies for the management of resources within the security sector during the second phase. The pre-requisite here is that civil servants and institutions are trained in effective planning, budgeting, programming, monitoring, overseeing and implementing reform policies.

It becomes evident from the above-mentioned outline of ideal-type SSR phases that the second generation of SSR does not have a clearly defined endpoint. This phase corresponds to the consolidated democracy model, whose coming into being requires not only the establishment of new structures but also changes in the behaviour and attitudes of security sector personnel. The conclusion is that only after such change occurs can democratic and effective security sector governance become "the only game in town".[55]

In keeping with this, SSR in Serbia was analysed from the perspective of the process of democratisation and post-conflict recovery. The underlying assumption was that the broader context in which SSR in Serbia began was influenced by the need for a simultaneous four-fold transition: from a non-democratic to a democratic political system; from a planned to a market-led economy; from

[54] Linz, J. & Stepan, A. (1998), Problems of Democratic Transition and Consolidation, (Belgrade:Filip Višnjić), p. 6 state five arenas of democracy: (1) an autonomous and valued political society, (2) conditions for the development of a free and lively civil society (3) the rule of law (4) an institutionalized economic society, and (5) a state bureaucracy that is usable by the new democratic government

[55] The paraphrased definition of a consolidated democracy by Linz&Stepan.

monotype social relations to pluralistic ones; from conflict to a period of post-conflict normalisation, stabilisation and reconstruction. It was, therefore, necessary to examine carefully how the trends of such a complex transition had affected the security sector reform. Only after this examination was it possible to determine with certainty whether the first generation of reforms had been completed and consolidated and whether it had progressed into the second phase. The research findings should provide the CCMR team with an answer to the key question of their research, that is, to assess whether SSR in Serbia has finally crossed "the point of no return" after which this sector and/or some of its actors will not be able and will not want to jeopardise the democratic functioning of the state and/or of the political community.

Development of methods for measuring progress in SSR

As the issue of measuring SSR progress has not been researched enough, and that the topic in question is a complex phenomenon, it was decided that the *grounded theory approach* would be used in planning the research. This approach implies that the theory is developed in the course of research, by means of "continuing interaction between analysis and the obtained data."[56] The findings of Silverman[57] about the three stages in theory building (developed by Glazer and Strauss in 1967)[58] were our starting point.

1) In the first step, categories which will shed light on data and give them meaning must be defined. In our case it meant that the definition of the reformed security sector had to be operationalised into relevant criteria for assessing the level of realisation of three aspects of reform: democratic governance, efficiency and effectiveness of providing national and human security. The criteria were further developed into indicators, which resulted in the creation of the Security Sector Reform Index (SSRI). A special category within the Index which we wanted to analyse was the holisticness, that is, the degree of integratedness within the national security sector.
2) In the second step, content is added to the categories in order to examine their relevance. In the case of Serbia, it meant that the SSR Index was to be applied to four distinct types of actors (according to Hanggi's classification). However, it immediately became apparent that the application of the same

[56] Halmi, Aleksandar (1996): Kvantitativna metodologija u društvenim znanostima. Zagreb: Pravni fakultet u Zagrebu, studijski centar socijalnog rada, 278.

[57] David Silvermann (2005) *Doing Qualitative Research – A Practical Handbook* (London: Sage Publications), str. 179.

[58] Glaser, B. G., & Strauss, A. L. (1967). *The discovery of grounded theory*. Chicago: Aldine.

criteria to the four distinct groups of actors would create difficulties. This was resolved by fine-tuning the methods of measurement and the instruments so that the specificities of the different types of organisations within the sector could be identified. The next step was to develop the methods and criteria for analysing the social context of the reform in order to uncover its specificities in the case of Serbia. During the context analysis a zero point has to be determined against which the progress of the reform would be measured.

3) Once the previous steps have been carried out successfully, the chosen categories should be fitted into a larger analytical framework so that they can also be applied outside the original context. On the basis of experience gained from the application of SSRI, the original instrument and measuring tools were further fine-tuned and major trends in Serbian SSR were identified.

1. Devising Measuring Tools

Before the gathering of empirical data started, the researchers had to find an answer to the question of "what a reformed security sector meant". According to Timothy Edmunds[59], the answer can be found from three perspectives: a) from the perspective of an ideal type of reformed sector, b) on the basis of regional standards of reform and c) on the basis of the reform process assessment in a given state.

The first approach requires a previously defined generic framework or an ideal type of a reformed sector. Hanggi's definition was used for that purpose in this research, from which three aggregate dimensions of SSR emerged: 1) democratic governance, 2) efficient security provision and 3) effective provision of human and national security. These dimensions can also be interpreted as final goals of any SSR but these have not yet been achieved even in developed democracies. As Wilfried von Bredow and Wilhelm N. Germann[60] observe, the issue here is "success without a clearly defined end: the protective role of the security sector should be increased to a maximum, while reducing the risk of resorting to coercive measures which endanger democratic culture". Success is usually measured in situations of crisis and avoiding these is also one of the goals of the reform.

In understanding SSR as a process, the CCMR team's standpoint was that it is only possible to measure with certainty the level of SSR at a specified point

[59] Edmunds, Timothy 'Security Sector: Concept and Implementation' In Wilhelm N. Germann and Timothy Edmunds (eds.) *Towards Security Sector Reform in Post Cold War Europe: A Framework for Assessment* (DCAF / BICC), pp. 11-25.

[60] Von Bredow, Wilfried and Germann, Wilhelm N. (2003) 'Assessing success and failure: practical needs and theoretical answers', in Germann, W. and Edmunds, T. *Towards Security Sector Reform in Post Cold War Europe: A Framework for Assessment*, (DCAF / BICC), pp 161-174.

in time and that this is only achievable by using a previously determined scale based on the model of a reformed sector. To develop the measurement scale, it was necessary to further define the criteria and their content for each of the dimensions of reform. Each dimension had to be operationalised into criteria and the criteria were further to be developed into a list of specific indicators for each of the four groups of actors. For example, the participation of citizens and civil society organisations in security policy was adopted as one of the criteria to be used under the democratic governance dimension. That criterion was then further divided into two sub-criteria: a) the participation of citizens in policy-making, b) the participation of citizens in policy implementation and evaluation. Consequently, different indicators were established within the first sub-criterion, such as: setting up consultative meetings with citizens on the topic of security in their neighbourhood (indicator for the police), or setting up focus groups to check the effects of new policies before they are introduced (indicator for both the police and the military).

It was also taken into consideration that the three dimensions contained in the SSR definition were not absolute nor that they manifested themselves in the same way in different countries. Therefore, they were open to researchers' subjective interpretation in the process of their operationalisation and transformation into specific criteria and indicators. In addition, the general definition of SSR builds on the normative assumption of the existence of a democratic political system or on the aspiration of developing such system. However, how this norm will be implemented will mainly depend on the dominant political culture, as well as the public administration tradition in a given country. For example, the same norm of democratic control and oversight over security intelligence agencies has been "operationalised" differently in different countries, depending on the relations among the executive, legislative and judiciary authorities and their relations with the civil society. Consequently, the control and oversight over security-intelligence agencies carried out by the government-appointed committee (UK) is as democratic and legitimate as that carried out by the parliamentary committee (Germany) or by the security and defence committee which also oversees the police and the military (Serbia), or when a special body, consisting of civil society representatives, is included in the parliamentary control and oversight, as is the case of the Civic Control and oversight Committee in Croatia.

There is no value-neutral measuring. The tools chosen for measuring are based on certain values and norms, usually those of the actual researcher or of the party on whose behalf the measuring is undertaken. It is therefore important to know what logic of appropriateness the CCMR team was guided by in defining the criteria for each dimension and in determining the indicators. The Index model used in this research was developed according to the normative assumption that the reformed security sector is based on the principles of democracy, which thus makes the measuring of its progress against the achieved level of democracy possible. In addition, this Index model relies on the conti-

nental legal and public administration legacy, as well as on standards set by international organisations, particularly from the European region. Since the idea of a state as a desirable model of social organisation is presupposed here, this model will probably not be applicable in parts of the world where the concept of the state was imposed from the outside and has not yet been embedded.

DIMENSION	CRITERIA	SUB - CRITERIA
DEMOCRATIC GOVERNANCE	Representativeness	Representation of Women
		Representation of Ethnic Minorities
	Transparency	General Transparency
		Financial Transparency
	Participation of Citizens and Civil Society Organisations	Participation in Policy - Making
		Participation in Implementation and Evaluation of Policy
	Accountability – Democratic Civil Control and Public Control and oversight	Control by the Executive
		Parliamentary Control and Control and oversight
		Judicial Control
		Public Control and oversight
	Rule of Law	Rechstaat (Legal state)
		Protection of human rights
EFFICIENCY	Good Governance	
	Human resources Management	
	Financial Management	
EFFECTIVENESS	Integratedness of System	
	Legitimacy of the sector or actors	
	The Ratio between Aims, Resources and Outcomes	

Table 12: dimensions, criteria and sub-criteria of the level of reform of the security sector

This is the reason why the operationalisation of the various dimensions of an ideally reformed security sector was done in line with the standards of the

UN and European regional organisations (OSCE, Council of Europe, EU, NATO). This was in line with the so-called regional approach to the measurement of reform. However, the disadvantage of the aforementioned approach is that it did not provide the right tools for measurement of the holistic progress of SSR and assessment of the achievements of each specific reform. Nonetheless, the list of basic analytical units was derived from the analysis of minimum common standards and the units were then turned into the criteria of SSR across separate dimensions. This was how the first version of the SSR index was created - it comprised a list of 22 relatively differentiated criteria. After this[61], the relevance of different criteria was debated in workshops held in the Centre, and with participation of foreign experts. Later on, their number was reduced so that the collection of data could start during the first year of project implementation.[62] After seven versions of the index, the selection was narrowed down to five groups of criteria, which were seen as key for assessment of the level of democratic governance in Serbia's security sector. The following criteria were chosen (1) representation of women and ethnic minorities (2) general and financial transparency, (3) participation of citizens and civil society organisations in the making, implementation and evaluation of policy, (4) accountability, i.e., democratic civilian control and public control and oversight and (5) the rule of law. The starting point was the conviction that the mentioned above criteria could be applicable to all the states where security sector reforms were taking place in accordance with democratic principles.

After this process, most criteria were further operationalised into sub-criteria, which function as an auxiliary analytical units used to assess the success of the reform in fulfilling each criterion's requirements. To illustrate this, it was decided that representativeness was to be assessed only on the basis of the representation of women and ethnic minorities in the security sector, that is, the number of their actors. It was estimated that, in the initial phase of the project, these sub-criteria could provide at least a partial picture of the level of repre-

[61] Apart from the contribution by the Centre researchers, and the presence of associates such as Mr, Djordje Vukovic (CESID), Mr Bogoljub Milosavljavic and Mr David Love, who were all included in the process of operationalitisation of the Index, we received useful comments form Ms. Helene Ziherl from the Geneva Centre for the Democratic Control of Armed Forces, researchers from the Norwegian Institute of International Affairs after the presentation held in May 2008, and from the group of students attending the Master's programme on International Security at the Faculty of Political Sciences and also, from the participants of the Young Faces programme with whom, during their exercises, we partially tested this instrument.

[62] An interesting tool for determining the level of importance of each criterion was designed by the team from the Institute for Democratisation which worked on the development of the Index of 'open society'. Within the framework of this research, two questionnaires were given to the experts containing the list of criteria for the society openness. The first questionnaire was used to access the level of implementation of the criteria for openness in Croatian society. The second one was a scale of importance, on which the experts judged the importance of each criterion for achieving an ideal level of openness in any society. For more details, see Goldstein, Simon (2006) Index of Open Society, Croatia 2006 (DEMO: Zagreb)

sentation of certain social groups in state institutions belonging to the security sector. It was also decided that in this phase, data collection related to the representation of other social groups - such as religious minorities or minority groups based on sexual orientation - should be omitted. The reason for this was partly the lack of available data and partly because these are not priority areas in the current phase of reform Serbia.

In the next phase a consensus was reached regarding the scope of working definitions of the sub-criteria. The intention was to avoid the danger of measuring the same events several times under the different criteria. In accordance with this, under the "public control and oversight" sub-criterion, the results of the work by the Commissioner for Information of Public Importance were omitted, because this had already been assessed under the "transparency" criterion. Furthermore, we agreed to exclude the control and oversight practiced by citizens and/or civil society organisations from the same criterion, as this was measured under the "participation". The longest debate ensued regarding the operational definition of the "legitimacy" criterion. For the purpose of this research it was decided that the observation and evaluation of the level of democracy at elections was to be excluded from the scope of the "legitimacy" criterion. We focused instead on the level of public trust in the state security institutions and their leadership as well as on the public perception of threats to safety of Serbia and its citizens. Within this criterion we also analysed whether there were any significant differences in the level of trust or perception of threats between various social groups (such as ethnic minorities, youth or women) and the majority of the citizens. In the following phases of the research this could provide a basis for determining potential security threats stemming from such differences in opinion.

The process of selecting and shaping of optimal procedure was - temporarily - finalised by devising a two-dimensional scale for measuring the SSR progress. . On the vertical axis, under label "dimensions", general (ideal-typic) characteristics of democratic security sector have been listed. These have been then grouped under separate criteria and sub-criteria on a horizontal axis for each of the security sector elements. However, as Jane Chanaa reminds, "while it is relatively easy to draw up a check-list for the SSR agenda, it is much more difficult to see how that summary can be implemented."[63] For this reason the indicators were selected and listed, which were meant to be used in analysing the collected materials and data in order to find out which actors, if any, and to what extent, had applied and fulfilled the criteria. During this phase, the CCMR researchers spent most of their time developing indicators which would encompass and express both a specific function and different - professional, institutional, social, ethical, cultural - characteristics of each actor in the security

[63] Quoted in Martinusz, Zoltán (2003) 'Measuring success in security sector reform: a proposal to improve the toolbox and establish criteria', in Germann, W. and Edmunds, T.(eds.) Towards Security Sector Reform in Post Cold War Europe: A Framework for Assessment (DCAF / BICC), p.13

sector. Attention had to be paid that selected indicators were applicable to at least the majority of actors in one group in order to make the obtained findings comparable and measurable. This was not an easy task, which is best illustrated by the following example: it is an indisputable fact that an equal representation of women in the operational units of the military and police is not expected. The Beijing Declaration sets forth a standard according to which up to 30% of the operational police force should comprise women, whilst 10% women in operational military units is considered a considerable achievement even in developed democracies.

Because of the aforementioned differences, each researcher had a task, based on defined dimensions and criteria of reforms, to develop indicators for the actors whose reform he or she was monitoring. During this process, an assumption was confirmed that general dimensions and reform criteria were not of equal importance for all the actors, and they could not be equally applied to all of them. For example, it cannot be expected that the transparency of work and management is the same in private security companies and in statutory actors that use force and which are authorised by the Constitution. Similarly, it would be pointless to expect that citizens will participate in creating and implementing of the security policies of private security companies as the latter are commercial non-governmental agencies. However, from the point of view of national and human security, it makes sense to research whether theses companies are integrated into the security system. It is even more important, to find out if and how the use of means and methods that can jeopardise citizens' human rights has been regulated and whether there is any control and oversight over that implementation. The comparison of the activities of the parliament, civil society organisations and the judiciary within the security sector would result in similar findings. As these entities have different roles, competencies and sources of power, it was possible to establish only if and to what extent each of them participates in the control and control and oversight of the statutory actors in the security sector.

As a result of preliminary analysis of collected data and insights gained, it was concluded that progress in SSR with all four groups of actors could be measured only against three common criteria: integrity, transparency and legitimacy. As other criteria could not be applied without making serious mistakes and problems, it was decided that instead of one index model, three models would be developed which should take into consideration different functions of the actors. Separate indexes were developed for (1) government institutions that use force (2) non-statutory actors that use force and (3) both statutory and non-statutory actors which have supervisory and controlling roles in the security sector. A list of nine actors was created, followed by a separate list for each of them of specific indicators and questionnaires for assessing their progress in reform.

The list of chosen criteria indicates clearly that measurement was undertak-

en from the perspective of local civil society and that the focus was on obtaining better insight into the level of democracy reached in Serbia's security sector. This is the reason why the indicators and methods for measuring of efficacy and effectiveness of security sector actors' actions, and of statutory actors in particular, have not been fully developed yet. There were two more important reasons for this. The first stems from the fact that for a serious evaluation of efficiency of actions of statutory actors that use force (the police, the military and intelligence services) to be carried out, it is essential to possess specialised knowledge and technical expertise. For example, in order to measure the efficiency of police actions, that is, in order to define adequate indicators of its efficacy in the suppression of crime, it is necessary to have a profound criminal expertise. However, this kind of expertise can hardly be achieved without years of work in the police force. The second reason stems from the unavailability of authentic and valid data which would enable a more precise measurement of each actor's efficiency in providing, for instance, physical safety to citizens of Serbia. Internal assessments of combat readiness of militarised police sectors, or of the military itself, are even less available. Quite understandably so, as such data are deemed classified in any country. Hence, it was decided that within the "efficiency" dimension only the aspects of efficiency pertaining to all Serbian public administration institutions should be measured. In accordance with this, the management of human and material resources was assessed, as well as the procedures for creating and implementation of policies (planning, budgeting and assessment). Intelligence services, due to the type of their activities, have escaped any serious measuring of efficiency, even after additional narrowing has been carried out.

To define and then measure the effectiveness of security sector actors proved to be the most difficult task. This even more so as the same reasons which created difficulties in measuring efficiency appeared here as well. Lastly, the effectiveness of certain statutory actors, such as the military or intelligence services, can be measured with great difficulty under regular (peaceful) circumstances. In other words, the effectiveness of any armed forces can be evaluated with greater certainty only in the state of war or after it. However, then it might be too late or even pointless, in case of a defeat. Similarly, the effectiveness of intelligence services can be assessed in principle only on the basis of information publicly released by their civilian superiors or expert officials, that is, after some damage (the prevention of which falls under their jurisdiction) has been done. This largely applies to state institutions with certain police powers as well. For instance, only customs officers and maybe the police can make a roughly accurate estimate as to how much smuggling over state border has been done over a period of time. Similarly, only tax police can, to some extent, estimate the damage done to the state by the so-called "black market" or "grey economy" whereas the Anti-Laundering Administration can estimate the amount of money "laundered" in Serbia and at what price.

Therefore, the effectiveness was measured in this research only against three criteria: legitimacy, integratedness and the relation between goals, means and results. Necessary clarification of the "legitimacy" criterion has already been given in the previous text. Within the integratedness criterion, "integratedness upwards" was measured first. It should demonstrate if and to what extent each actor was included in the integrated sector, namely the national security system and whether such system existed at all. Parallel to this, the so-called "integratedness downwards" was considered, which should show the level of internal integration of each of the actors. Strategic and legislative acts that should determine the elements of the sector (system) and the roles of all actors were also analysed in order to check the vertical axis. It was necessary to determine whether the National Security Strategy existed at all and whether the Constitution of the Republic of Serbia mentions and/or regulates in a holistic manner at least some segments of the security sector. We also had to determine the manner in which the roles of different actors in the security sector were defined and distributed in these acts. The team also checked if minor acts were in accordance with the Constitution and Strategy Outline. In addition, we were looking for defined procedures and instances for horizontal coordination and cooperation within the sector, such as cooperation between the military and the police in the state of emergency. "Integratedness downwards" was analysed in the same way, i.e., we analysed if the horizontal communication and coordination within each of the actors had been arranged appropriately.

When we tried to develop indicators for assessing the relation among goals, means and results, problems occurred similar to the ones we had been dealing with when efficiency had been considered. First, the data on invested resources and results achieved are not available. This applies especially to security-intelligence services as information about their operations are well hidden from the public eye. Even when the results of some of their activities are released, the public cannot find out about the costs or whether these operations have been carried out successfully and effectively. This is how the problem of defining and measuring the effectiveness of the security sector and its actors arose. Is the effective sector the one which through preventive measures and actions manages to prevent or diminish the violence in the country, or the one which successfully reacts to violence or any other security threat (E.g., natural disasters). Whatever the answer may be, the problem remains how to assess if, say, too much was spent on solving some security problem. This further requires that we also take into consideration how security goals are ranked in the political arena or in the public. If, on the other hand, we assess effectiveness solely on the basis of public expectations and current political priorities, it can turn out later that such effectiveness has had negative consequences on other parts of public administration or on the entire society.

In the end, decision was made that in this phase of research the focus would be on measuring only if and to what extent the achieved results were in keeping

with the reform goals formulated in the country's strategic papers and politicians' speeches at the onset of the transition. The assessment of effectiveness was additionally hampered by the fact that, in Serbia, only defense sector possessed the strategic document, which was, in all fairness, a relic of the previous state. The fact that Serbian society was deeply divided regarding the perception of goals for future development, including the goals and costs of the security sector reform – presented even a greater problem. That is why there is no consensus on the future effective national security system and its traditional actors. For example, a part of society advocates a big conscript army whose main task would be to defend the territorial integrity of the country. This would require greater budget expenditure for the military, probably at the expense of other parts of the sector or state administration. Another part of the society advocates a smaller, professional army which would defend the country in cooperation with other international actors. However, there are no data available regarding the costs of such an army.

2. Narrowing the research scope

The aforementioned problems forced the research team to harmonise its measuring criteria with the importance given to them in providing human and national security and to harmonise the planned scope with their own resources. For this purpose, foreign influences on the SSR in Serbia were excluded from the context analysis first. The effectiveness of providing security was then evaluated only on the national level, and according to the requirements for the respect and protection of human rights, whereas the evaluation at the level of providing local security was excluded. Only in the case of the police it was evaluated whether its reform was in line with the requirements for providing security in the local community. As all reform criteria imply some of the basic human rights, we are convinced that the offered index model is in accordance with the human security concept.

It was also decided that the pilot phase of the project would not include all actors who, according to a broader definition, could belong to the security sector. The progress in the reform of several groups of actors was measured instead. It is our estimate that the fate of the first generation of SSR in Serbia depends on the success of their reform. The groups are as follows: (1) statutory actors that use force – the police, the military, intelligence services and state institutions with certain police powers; (2) statutory actors that do not use force – The National Assembly and the judiciary; (3) non-statutory actors that use force - private security companies and (4) non-statutory actors that do not use force - civil society organisations. Due to limited research resources and difficulties in accessing data, we gave up on analysing the impact of the media and acadeMoI (non-statutory actors that do not use force), the role of the Ministry of Foreign Affairs and other parts of the government which participate in the security sec-

tor management (statutory actors that do not use force) as well as on analysing the paramilitary formations and crime syndicates (non-statutory actors that use force). The research of other organisations and civil society forms, such as local initiatives and marginalised groups, was left out as well.

In accordance with the aforementioned, the aims were narrowed and as a result the scope of this research was limited. In addition, the quality of the findings depended largely on the availability of relevant data and the level of previous research of the security sector in Serbia. Despite this, the researchers paid attention that all four groups of actors were represented in the research sample. The actors whose activities had not been explored sufficiently until then were also included in the sample. They were marked as state institutions with certain police powers (such as customs, tax police and Anti-Laundering Administration), due to the fact that all of them have some powers to apply coercive measures or other measures which can affect the citizens' rights to privacy.

The choice of the reform starting point, against which all subsequent progress was to be measured, represented a special challenge for the research team. This choice, even more importantly, determines the manner in which the success of the reform is defined. In case of Serbia, we decided to measure the SSR reform in the period from 2006, when Serbia became an independent state, until the end of 2008, when this research was completed. However, the researchers were asked to keep in mind the previous state of affairs as well, and to include in their analysis and findings the scope of changes which had occurred in this sector or in its actors after the toppling of Milosevic's regime in October 2000. Consequently, they had to keep in mind, when calculating the SSR Index, the context analysis results, the heritage of the security sector and some of its institutions and the expectations of the citizens from the SSR. As a result, the findings obtained in this phase can be used as parameters for further measuring of the SSR in Serbia, which, in turn, would facilitate the development of tools for measuring progress in the unit of time and identifying the key reform trends.

3. Assessment method

Once the object of assessment was redefined and the list of dimensions, criteria and reform indicators for the selected security sector actors confirmed, a decision on the measurement procedure had to be made. After various procedures had been discussed, we opted for a SSR scale with (1) as the lowest and (5) as the highest grade, a model similar to the annual World Freedom Index[64] applied by the American organisation Freedom House. It was defined that the lowest grade would indicate the complete absence of SSR, that is, the security sector in a given country was unreformed. Conversely, the highest grade meant that the

[64] For more details visit: http://www.freedomhouse.org/template.cfm?page=15

second generation of SSR was accomplished successfully, and that the reformed sector was now democratically governed. We opted for this model because it requires fewer indicators whose accomplishments is based on the analysis of both quantitative and qualitative data.

This assessment model was adapted to every actor. We measured their respective levels of reform first, and then the trends in the whole security sector. In the final stage of measurement, the researchers had to transform the earlier collected data and grades given against each criterion into a final (cumulative) grade for the reform in relation to each dimension and for each actor. In the next stage, the researchers added up all grades and then divided the total number with the number of dimensions. In this way, the average grade was created for the level of reform progress for each actor. Following the same principle, the researcher then calculated the average grade of SSR progress for each group of actors.

This means that the Reform Index of each actor was derived from the grades given on the basis of a set of indicators for each sub-criterion first, and then for the criteria. For example, on the basis of the analysis of indicators of female representation in the police, it was estimated which grade, from (1) (the worst scenario) to (5) (the best scenario), would accurately depict the representation of women in Serbian police. Then, the average grade for each criterion was calculated, based on the average value of the given grades according to each sub-criterion. For example, in order to grade the police against the representativeness criterion, the grades for the representation of women and representation of the minorities were added up first, and then the sum was divided by two. Following the same procedure, the Reform Index was calculated for each individual dimension. This means that it was obtained from the average of the grades of the level of reform, which had been given previously for every criterion within certain dimension. For example, the grade for democratic management of statutory actors that use force, is in fact, the mean value of all grades given according to the following criteria: (1) the representation of women and ethnic minorities (2) transparency (3) participation of the citizens and their organisations in policy-making, implementation and evaluation of policy (4) democratic civil control and public control and oversight and (5) rule of law. Along the same lines, the grade given to the effectiveness dimension was calculated on a basis of mean value of the grades given for the management of (1) human and (2) material resources. Accordingly, the grade for effectiveness dimension is the mean value of the grades given by the criteria of (1) legitimacy, (2) integratedness and (3) the ratio between aims, resources and outcomes. The Reform Index of each actor was also obtained by calculating the average grade, which, in turn, was calculated from the grades given to this Index for each of the three dimensions. The military Reform Index, for example, was calculated on a basis of the mean value of the grades given to the dimensions of democratic governance, efficiency and effectiveness.

In order to avoid mistakes, the possibility was given to allocate a half grade (0.5) for each of the values from 1-5. The researchers were also obligated to submit a brief rationale in written form for the grade given according to each criterion, explaining in more detail why the grade had been allocated. This explanation was to further clarify how the inherited situation had affected the progress and what indicators, international standards and practices had been used in formulating the grades. Roughly, the grades 1 -3 were usually given based on the indicators of existence or lack of formal rules (rules-based indicators) for the actions of particular actors. On the other hand, grades 4-5 implied that the actors were in the second generation of reforms, they were using newly-adopted regulations in practice and that there were positive changes in the public perception of security sector and/or its actors. Under that, it meant that in practice, the newly adopted norms are in use, and that there are positive changes in the public perception of security, and/or security sector and its actors, as well as the proof that the organisational culture and the system of governance were based on new (democratic) values. These indicators are called the outcome-based indicators.

After assessing individual actors, average grades were calculated for the groups of actors. However, the plan to calculate the Reform Index of the whole SSR was abandoned. In the course of the research it became evident that to simply add up the grades of each of the groups of actors and then divide them by the number of groups would be not only incorrect in terms of methodology, but also impossible. The security sector is not just a total sum of four groups of actors. Furthermore, each group is comprised of different individual actors. In the end, separate reform indexes were calculated only for (1) statutory actors that use force, (2) non-statutory actors that use force and (3) statutory and non-statutory actors that are empowered to control and monitor the actions of the actors that use force. Despite the fact that the attempt at devising a unique Index based on the quantitative indicators of the SSR has failed so far, the applied assessment method has provided some valuable insights:

1) The main trends in the SSR can be identified and it is possible, at least in principle, to rank the key actors according to the level of their reform. For example, the comparative analysis of the groups of actors' indexes has revealed that the work of the majority of the actors still lack transparency and that the financial trends and budget allocating are hidden (unknown). The absence of a systematic and meaningful parliamentary control and control and oversight over the governmental power-holders in the Serbian security sector is also evident.
2) It is also possible to identify the actors whose reform is least known of or those with, according to the available data, the slowest pace of the reform. In the case of Serbia, such actors are the intelligence agencies and private security sector.
3) The holistic approach to the reform and the measuring of the SSR can be

justified and confirmed by applying several identical criteria on all actors, such as transparency, democratic civil control and public control and oversight and integratedness.

4. Applicability of the measuring tools and the lessons learned

In this phase of the research, our measuring tool, compared to the indicators that are used to assess the work practice, is largely based on formal norms (E.g., the existence of laws and bylaws). Most of the indicators are the so-called "process" indicators (indicating whether certain standards have been adopted), but they do not indicate the outcome of the change. This shortcoming of our tool can result in proposing solutions which would consequently lead to the over-regulation of the security sector. Being aware of this problem, we believe it is important to explain how these indicators have been selected. The selection was pre-determined by the key research question; has the first generation of the SSR reforms been completed and are the established norms necessary for the subordination to the democratic civilian authorities?

More often than not, the grades indicate the level of transparency in the work of the actors and the effectiveness of their public relations departments. In other words, the institutions which granted the researchers access to the required data had an opportunity to make the potential progress in their reform known to the public and therefore assessed more objectively. On the other hand, non-transparent institutions were risking that even the changes they had actually made would pass unnoticed by the general public and that they would receive lower grades due to the lack of available data. For example, the Ministry of the Interior of the Republic of Serbia, the intelligence agencies, the judiciary and prisons all failed to provide the lists of their employees, nor did they provide any data on human resources management. The researchers tried to overcome this problem by collecting data from secondary sources and by triangulation with media sources. Consequently, the grades for these actors were formulated only after all available data had been collected.

Despite the shortcomings, the Research team firmly believes that the given Index can be very useful for determining and measuring whether the first generation of SSR in a given country, in this case Serbia, has been completed. In other words, if all constitutional and legal regulations which guarantee an effective subordination of primarily state apparatuses of power to democratically elected and legitimate civilian authorities have been put in place.

It should also be mentioned that the final grades do not reveal anything about the intentions, even the best ones, of the actors in question. They do reflect, to an extent, the current state of affairs in a given area of practical policy.

It seems that the applied grading system is not representative enough of the reform dynamics, i.e., the rate at which the public perception of security

threats changes. As the SSR is a "moving target", when interpreting the numerical score one should bear in mind that the SSR progress was measured for the 2006-2008 period.

5. The next phase of the research

The findings of this research will be additionally checked in the course of the next year. For that purpose, the Centre will try to present its findings to the public and to organise consultations with different groups from the security community in Serbia, such as employees of the governmental institutions competent for the security, the authorities in charge of the sector governance and control over the work of its actors, as well as other civil society organisations. Consultations will be held also with owners and employees of private security companies. The researchers also expect that the presented analytical concept and the accompanying tools and procedures will be further tested and improved in the course of the comparative research of the SSR progress in the countries of the Western Balkans. This research is already under way. It should contribute to determining the similarities and differences among the countries in question and result in preparing a set of recommendations that could be useful to both the governments in the region and international actors. Moreover, the research will be an opportunity for further standardisation of the tools and procedures for measuring the SSR progress.

Contexts of the Republic of Serbia's Security Sector Reform

Miroslav Hadžić

It is a reasonable supposition that the research team of the Centre for Civil-Military Relations (CCMR) has managed to develop and apply the initial, and yet defensible, procedure to map the security sector in Serbia and measure the achievements of its reform (SSR). Furthermore, the team has presumably, at least within the requirements of this project, removed and/or resolved some of the theoretical and methodological problems other researchers caution against.[65] It is expected that in doing so the team members have met some of the key requirements indispensable for successful measuring.[66] Particularly useful in that exercise were the proposed tools and the initial criteria for measuring the success of the SSR.[67] They were additionally urged in their efforts by the observation of one of the above-mentioned authors that, in order to measure the SSR progress and success, procedures and instruments adjusted to the specific features of the country concerned should be developed. That is why only a series of case studies will tell us whether it is at all possible to make an ideal typical and efficient model to measure the success of the security sector reform. Observing the listed guidelines the team applied a procedure that would, in the final stage, permit the quantification of progress in Serbia's SSR. Naturally, provided that there has been any. That should, subsequently, lead to the Security Sector Reform Index (SSRI). The validity of the whole procedure will, we hope, be judged by the professional and more general public on the basis of findings presented in the following chapters and contributions to this Yearbook.

The following text will, therefore, proceed from the assumption that the

[65] Wilhelm N. German and Timothy Edmunds, eds., *Towards Security Sector Reform in Post Cold War Europe – A Framework for Assessment* (Baden-Baden: Nomos Verlagsgesellschaft, 2003).

[66] Wilfried Bredow and Wilhelm N. German, "Assessing success and failure: Practical needs and theoretical answers," in *Towards Security Sector Reform in Post Cold War Europe – A Framework for Assessment*, eds. Wilhelm N. German and Timothy Edmunds. (Baden-Baden: Nomos Verlagsgesellschaft, 2003).

[67] Zoltan Martinusz, "Measuring success in security sector reform: A proposal to improve the toolbox and establish criteria," in *Towards Security Sector Reform in Post Cold War Europe – A Framework for Assessment*, eds. Wilhelm N. German and Timothy Edmunds. (Baden-Baden: Nomos Verlagsgesellschaft, 2003).

above-mentioned procedure enables us to identify and measure the main achievements in Serbia's SSR. We will thus take it that the data and findings obtained have been properly quantified and translated into the Index. We, likewise, believe that the following descriptions of reform courses related to individual actors may add to our knowledge of the conditions of its implementation. Additional data thereon may be found in the general and separate chronologies – a specific product of the research – registering the main events in the reforms of key actors in the Serbian security sector in the 2000-2008 period. All that combined should, on its part, facilitate the reading, interpretation and use of the Index.

However, one could rightly wonder whether the following reviews and descriptions of main events give us a sufficiently real and complete picture of the social and political context wherein the reform was carried out. More importantly, do they tell us about the influence of the local context on the courses and results of the security sector reform in Serbia? In other words, have its characteristics, all or any, presented an obstacle or incentive for the (greater) success of the reform, and if so, why? This gives rise to a dilemma as to the possibility for the key characteristics of the context to be precisely identified and measured, and then also numerically expressed. Assuming that the influence of the context may be relatively accurately established, the problem is how to calculate and incorporate it into the SSRI.

It is, therefore, intention in this text to briefly consider only those characteristics of the context that, in our view, elude accurate measurement and quantification, but are indispensable for the proper understanding of the SSR courses and results in Serbia. We do hope that this exercise will produce useful findings and methodological instructions that would facilitate the assessment of the SSR achievements in Serbia in real conditions. An objective so defined relieves us of the obligation to systematically cite all the empirical material required, all the more so as it will be presented *in extenso* in other Yearbook documents and the Project's by-products.

For our purposes, characteristics of the context shall denote a mixture of interdependent but mediatory and interfiring political (and social) processes and events in Serbia, which directly or indirectly determined the pace and achievements of its security sector reform. We should also note that the SSR actors in Serbia worked in a given and mandated context. In other words, they could not choose the conditions for the start up of the reform, any more than they could subject these conditions to arbitrary or once-off change. That is why their approach to the SRR largely depended on the manner they used to interpret this particular circumstance and assess the prospects for the implementation of reforms both to themselves and the Serbian public. Ultimately, their discourse was, among other things, defined by the manner in which they (actors) projected and interpreted the contents and objectives of Serbia's reform, as well as the type of means they chose for its implementation.

Our considerations will be grouped in three sections. The first will discuss to what extent the labels used in literature to designate various SSR contexts are in agreement with the reform environment in Serbia. The second will examine the relation between the process of securitisation, i.e. desecuritisation and the SSR in Serbia. All that should allow us to use the concluding section for a brief review of additional difficulties encountered in measuring the SSR in Serbia.

(Dis)agreement between labels and reality

The concept of the SSR was politically formulated under conditions marked by a radical change of the world order in the late 1980s and early 1990s which, at that time, had its epicentre in Europe. In theoretical terms it was profiled within the main course of the academic debate on the transition, i.e. democratisation of Europe's former socialist states. Both discourses, therefore, reflect the theoretical (and political) optimism contained in the (implicit) conviction that these states will sooner or later, with many or not so many difficulties, create a liberal-democratic order.[68] That is perhaps part of the reason for the obvious lack of interest in the security sector displayed by theoreticians of democratisation, or rather the reason for the fact that the SSR scholars have failed to examine the interdependence of the democratic changes and the security sector reform in any greater depth. That is why, in simplified terms, the former find the reform of this sector an expected (necessary) consequence of democratisation and merely one of the various forms of its materialisation. The latter, on the other hand, indirectly suggest that the security sector can be reformed despite the modest progress in the democratisation of a specific country.

Still, the impression is that the contents and profile of these debates were substantially conditioned by the needs of the incumbent Euro-Atlantic creators of the new security concept and architecture. They, therefore, bear a strong stamp of Eurocentric approach to transition. That is why the potential security risks of the initiated change were considered primarily from the point of view of their influence on the preservation and/or strengthening of security in the Euro-Atlantic circle. This approach is doubtlessly rational, as those were the times of a security vacuum in Europe created after the fall of the Berlin wall. That prompted the researchers, as well as politicians, to look primarily for the methods of early detection and removal of security threats that could result from the uncontrolled disintegration of socialism and the breakdown of complex, but weak states (SFRY, USSR, CSSR). It was one of the main reasons for the subsequent speedy security integration of transition countries into NATO and the EU. In parallel, the SSR concept was launched and its application was intended to help the transition coun-

[68] Timothy Edmunds, "Adapting to Democracy: Reflections on "Transition" in Serbia and the Western Balkans," *Western Balkans Security Observer,* no. 7–8 (October 2007– March 2008): 5-11.

tries to attain self-sustainable security as soon as possible and thus stop being a challenge, or threat, to the security of the Euro-Atlantic region.

However, it soon turned out that NATO and EU enlargement policies not only suffer from arbitrariness, but also encourage mimicking and/or feigned democratisation of candidate countries in the period of their preparation for admission to these organisations. That is why it is possible that NATO has for a long time yet been joined by states with democratic deficits,[69] and that the EU with increasing frequency admits into its ranks countries that have not radically reformed their security sectors.[70] This, naturally, does not refute the fact that entry into NATO and/or the EU, on its part, stimulates and accelerates reforms in the newly admitted countries. It only stresses the significance of the international context and the important, and quite often decisive, role of external actors in the democratisation and SSR of a country. The same also largely applies to Serbia.

However, we must emphasise that the influences of the external environment and foreign interventionists on the democratisation and the SSR in Serbia were multiply mediated. The direction, intensity, range and consequences of external influences, just as in other similar countries, have always depended on the changeable and controversial, and quite specific context in Serbia. The degree and strength of these influences were no less dependent on the political and security dynamics and the dominant reform discourse in Serbia. Incidentally, these reasons, combined with the difficulties to reliably establish the effects of foreign interference, compelled the research team in this case to leave out the measuring of influences of the international context and foreign actors on the SSR in Serbia.

It means that in this analysis the context in Serbia will be intentionally exempt from its wider environment. We shall, namely, start from the assumption that it (the context) was primarily formed by the dictate of socio-economic and political processes in Serbia, and under the influence of internal and relatively autonomous causes and actors. We shall also have in mind that the context in Serbia was, indeed, also formed and changed under the influence of its wider environment. This relation of interdependence can be presented in the form of concentric circles with the Serbian context at the centre. Already in the next circle it is a constituent part, as well as a product of the context formed in the Federal Republic of Yugoslavia (FRY, 1992-2003), i.e. the State Union of Serbia and Montenegro (SCG) (2003–2006). In a yet wider circle the Serbian context, now mediated by the characteristics of the FRY/SCG context, participates in the

[69] The first precedent was the admission of Greece and Turkey (1952), followed by Spain and Portugal, while the entry of Bulgaria and Romania is a proper introduction for the impending admission of Albania and Croatia.

[70] Thus, for instance, Slovenia had no difficulties due to the absence of a radical reform of its security services, just as the high level of (systemic) corruption did nothing to hamper Romania and Bulgaria.

formation of the sub-regional context of the Western Balkans (Southeast Europe) to become, in turn, one of the parts of its reality, just as the latter has been formed within the Euro-Atlantic context and under its influence, and conversely contributed to its change.

Analytical requirements have driven the researchers to specify and classify the models of contexts wherein the SSR is taking place.[71] That gave rise to general criteria and aggregate indicators used to recognise and distinguish - and for methodological reasons also separate - three different contexts of the SSR: developmental, post-authoritarian and post-conflict. There is no doubt that each of these may be used to analyse the case of Serbia. We, however, believe that any one of them, used by itself, is insufficient to clearly outline and explain the characteristics of the context for the unfolding of the SSR in Serbia. Naturally, that is not so because of certain inherent – cultural, historical, economic, social, political or security – specifics of Serbia, but because it had, and still has, numerous parallel and intertwined characteristics and influences attributable to each of the three contexts.

That is also suggested by the following table which displays only some of the main features distinguishing the SSR context in Central European countries from that created in the Western Balkans, including Serbia after the end of the Yugoslav wars.

From the methodological point of view the least disputable are the model of the developmental context and the reasons for the SSR derived from it and based on socioeconomic benefits this undertaking may bring to a specific country. Equally doubtless is the fact that the Euro-Atlantic donor community was the main relay for the SSR export to numerous underdeveloped countries. It is also beyond dispute that by imposing conditions for their assistance the donors sought to force the authorities in these countries to undertake the SSR.[72] However, there does not seem to be sufficient proof that the donors have frequently succeeded in their intention. It would be even more difficult to prove that the imposition of the concept led to effective reforms of local security sectors. External pressure could, at best - as e.g. in the case of Western Balkan countries - prompt the domicile regimes' faster adoption of the reform phraseology and partial reorganisation of the sector in line with their own needs. But, the donors could not induce the local power holders to willingly give up the inherited mechanisms of party and/or personal control over the security sector and its actors. In other words, they could not prevent them in their intention to occasionally (ab)use the state apparatuses of power, and especially the secret services, for their daily and narrow political ends.

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[71] Heiner Hanggi, "Conceptualising Security Sector Reform and Reconstruction," in *Reform and Reconstruction of the Security Sector*, eds. Alan Brayden and Heiner Hanggi. (Munster: Lite Verlag, 2004).

[72] Hanggi, 11–12.

	Central European countries *1989 onwards*	***Western Balkans – Serbia*** *1991 onwards*
1.	Voluntary escape from socialism	Escape from socialism and transition into war
2.	Majority consensus in favour of transition	Absence of consensus – internally divided and conflicting societies
3.	Willingness to bear the costs and pay the price of transition	Refusal to bear the costs and pay the price of war
4.	Transfer of part of the communist nomenklatura into new - political and economic - elites	Nationalist transfer and ideological adjustment of the old nomenklatura in order to remain in power
5.	Overthrowing and disempowering of the old security nomenklatura	Survival in power and war-time alliances of the old security nomenklatura with the new political elites and organized crime
6.	Plural (re)distribution of authority and power	Prolonged survival and renewal of party state
7.	Decreasing internal security risks of transition	Growing internal security risks of transition
8.	Effective civilian control over state apparatuses of power	Personal and party control over state apparatuses of power
9.	Abolishment of client status for the apparatuses of state coercion	Preservation of client status for state apparatuses of coercion
10.	Holistic approach to the security sector and reform of state apparatuses of power	Partializing of the security sector and reorganization of state apparatuses of power
11.	Voluntary acceptance and fulfilment of conditions for entry to NATO and EU	Evasion of fulfilment of key conditions for entry into NATO (PfP) and the EU

Table 13: Main characteristics of Central European and Western Balkan contexts

Judging by all indicators Serbia fits into the model of the SSR developmental context,[73] in the first place because it is an insufficiently developed country. Perhaps it could be more accurately qualified as a country checked in its development by the Yugoslav wars and authoritarian nature of the former regime.[74] That is why the foremost issue on its agenda after the removal of Slobodan Milošević from power, was recovery, rather than development. Due to modest internal resources, Serbia's recovery and future development crucially depended on the external economic and financial assistance, as well as on the pace and effects of privatisation. But, contrary to the model, after the change in power Serbia did

[73] Hanggi, 10.

[74] Will Bartlett, "Economic Transition in Serbia Since 2000: Trends and Prospects", *Western Balkans Security Observer*, no. 7-8 (October 2007, March 2008): 30-38.

not see a more substantial spillover of developement funds into the security sector. Moreover, the priority given to the country's recovery and development resulted in a downward trend of investments into the apparatuses of state power. That is evidenced by the fact that in the past period (2000-2008) the Serbian authorities did not demonstrate any serious intention to create a special state fund for the reform of this sector, or at least its largest and most expensive elements, such as the military and the police.[75]

Furthermore, the local power holders have not so far managed, or were reluctant, to recognise and appreciate the link between the SSR and Serbia's social development, just as they failed to grasp the possible economic and developmental benefits deriving from the faster achievement of a sustainable, national and individual security. In the same manner, there is no proof that by granting or promising assistance the donor community has actually managed to encourage, and let alone force, the authorities in Serbia to carry out a faster and more successful reform of the inherited security sector. This fact is not refuted by the, reorganisation of the military and the Defence Ministry, e.g., gradual decrease in the military budget, the partial and deferred demilitarisation of the police, or the substantial reduction in the number of employees in the state apparatuses of power, even more so because the authorities in Serbia were compelled to make these moves due to the limited resources of the destroyed and plundered society and an exhausted and inefficient economy. In view of that, Serbia had to use the major part of the budget and state investments to deal with the social and economic consequences of the Yugoslav wars and Milošević's rule. That is where we should look for some of the reasons why the new authorities have never treated the SSR as one of the key preconditions for the democratisation of Serbia, i.e. an important lever for its faster development. That is, among other things, evidenced by the evasion to establish the price of Serbia's security, or to calculate and present to the public the social, economic and security costs, as well as benefits, of its potential entry into NATO and/or the EU. In that vein, the last government of Vojislav Koštunica avoided to inform the National Assembly and the public about the meaning, results and price of Serbia's proclaimed military neutrality.

There is yet another important reason why the SSR in Serbia cannot be properly examined if viewed only in the developmental context. It derives from the fact that this, in all truth construed model, does not include the unknown security factors and risks of transition in Serbia. This strengthens our belief that this approach was, for the most part, derived from the experience of Central European countries, where, after the breakdown of socialism, the majority of citizens, political and security elites reached a high degree of agreement about the future development strategy and thereby also the need to carry out the

[75] True, a decree was passed establishing a fund for the reform of the FRY military, which, however, did not become operational.

SSR. An agreement of this kind still does not exist in Serbia. That, on its part, facilitates political and ideological manipulations with the economic and social and, as we shall see later, also security cost of transition which, in periods of aggravating internal crises, made it easy to turn its losers into opponents of Serbian democratisation. That is why the analysis of the SSR, if performed only in the developmental context, fails to provide the explanation why, e.g. the slowdowns in economic and social development of Serbia, coupled with political resistance to its transition, cyclically threatened to grow into internal conflicts. Or, in other words, why it fails to explain the permanent danger of electoral or extra-institutional plugging of democratisation in Serbia, and potentially also of retrograde involution of its order.

Some of the above-mentioned deficiencies may be remedied if the Serbian SSR is considered in the post-authoritarian context. But before that, it would be in order to remove the possible ambiguities in the meaning of this syntagma. That is still more necessary because the prefix "post" may be interpreted in at least two ways. Understood literally, it suggests that we are talking about a society wherein the authoritarian order was irrevocably dismantled and that, consequently, the non-democratic ways of acquiring and distributing authority and power have been eliminated along with the old technologies of rule. Namely, it suggests that sufficient assumptions have been created for the establishment of a democratic order in line with the customs of a modern society. This may then lead us to conclude that in a society of that kind a SSR has already been successfully carried out, or is being implemented with the full support of the public and its political and security elites. If so, the "post-authoritarian context" in such countries is disappearing, and the analysis based on it is no longer effectual.

But, in a more narrow meaning, the prefix "post" indicates the countries where, starting with an once-off act (elections, putsch, mass rebellion of the population, foreign intervention), the authoritarian ruler and his right-hand men were deposed, and where the military, police and secret services, as well as the majority of their members, at least nominally, submitted to the new authority. In that case this label tells us that the change in power created only the initial, and necessary, conditions for the (pro)democratic consolidation of the society. It also tells us that this consolidation is not guaranteed in advance, and that a simultaneous, risky and long process of removing the authoritarian order, i.e. embedding of a democratic order, is yet forthcoming. This means that in these countries a liberal-democratic reform, and the inherent SSR, may be and are the strategic priority and objective of the new government and its voters, but not necessarily the priority of other political actors and the entire society. That is why the project of a democratic reform often, as e.g. in Serbia, becomes (or remains) only one of the competing options on the local political market. This outcome is made all the easier because the new government has to present, deliver and collect from the citizens (voters) the high costs of transition. This

may cause a substantial drop in the public support to the reform and its actors. On the other hand, the new holders of power may thus be encouraged to increase and amass their control invoking faster implementation of reforms or the fight against its opponents (opposition). In line with that, they may display a growing inclination to adopt and use the authoritarian and populist models of rule, applied by their predecessors. This course of events may be expected to substantially diminish the prospects for a democratically orientated reform of the security sector, and especially for a radical reform of the state apparatuses of force. Or, to put it differently, it may be expected that the interest of the ruling elites in the SSR will decrease the very moment they succeed in placing the state apparatuses of force, even if only nominally, under their political control.

Serbia doubtlessly fits into the so outlined post-authoritarian setting. An environment of that kind makes the limited reform results of overthrowing Milošević and the conceptual-strategic deficiencies of his successors (democratic opposition – DOS) still more obvious, all the more because the absence of a radical split with the old regime incited mutation and facilitated the masking of authoritarian patterns of rule in Serbia. Owing to that, the war-time redistribution of social wealth and power remained essentially intact. The new government promptly adopted the reform rhetoric, but did not entirely give up the old technology of rule. The Serbian political scene was pluralised, but is still dominated by parties established according to the "fuehrer" principle.[76] The division of power is constitutionally guaranteed and systemically carried out, but the practice reveals the domination of the executive branch, feudalised to the measure of forced out coalitions. The control package of power remained in the hands of leaders and top ranks of parties and/or coalitions, so that the cabinet and the parliament primarily serve for subsequent legalisation and legitimisation of decisions taken outside the system. It is true that independent institutions for the control and oversight of the system and government have been established (commissioner for information, ombudsman, state auditor) but their work is in different ways obstructed, primarily by power holders. State apparatuses of fprce have been placed under the political control of the current authorities, but not under the democratic civilian control of the parliament, the judiciary and the public. Lustration went missing, and the secret files kept on citizens are still in the hands of only partly reformed security services.[77] Still worse, Serbian society is in many ways once again powerfully ideologised and politicised. Politics has once more encompassed the entire life in Serbia and for a long time yet prevented the autonomy of social spheres. At the same time, the search for the new collective identity develops within the coordinates of

[76] Vladimir Goati, *Političke partije i partijski sistemi* (Podgorica: Fakultet političkih nauka, Univerzitet Crne Gore, 2008), 168-76.

[77] Bogoljub Milosavljević, "Reforma policije i službi bezbednosti u Srbiji i Crnoj Gori: ostvareni rezultati i izneverena očekivanja," in *Smisao reforme sektora bezbednosti*, eds. Miroslav Hadžić, Milorad Timotić i Bogoljub Milosavljević. (Beograd: Centar za civilno-vojne odnose, 2004).

a mythologised national past, accompanied by creeping desecularisation, i.e. clericalisation of state and society.[78]

That is why we are convinced that the true proportions of the influence of developmental difficulties and authoritarian heritage on the course and achievements of the SSR in Serbia may be established only if considered in a post-conflict context. Before we do that, we shall briefly examine the main meaning of this label. Introduction of the prefix "post" clearly conveys that we are speaking of a country where a conflict and violence have just been discontinued or terminated. That could mean that the initial assumptions have been created for that country's pacification, i.e. normalisation and stabilisation, and then also development; and within that also for the gradual removal of the main causes of the conflict, as well as the mitigation and redressing of its most difficult consequences. It is reasonable to expect that the conflicting parties and possible mediators have started to develop and introduce procedures for the prevention and/or early checking of future conflicts. All that should, at least in principle, favour a faster democratic transformation of the country concerned.

However, even in cases where it is so, the post-conflict context is not entirely devoid of the potential for the renewal of the old conflict, or its situational reorientation outward/inward, i.e. towards a new adversary. In such conditions the prospects for the implementation of pro-democratic reforms and the SSR largely depend on the causes, nature and consequences of the conflict in the given country. However, they are still more dependent on the interpretation of that conflict and its outcome by the internal political actors. There is also no doubt that the post-conflict context in a country which has only just emerged from an international conflict (war) will be vastly different from that created in a state where an internal strife has just been ended. That is why these countries are unevenly susceptible to the reforms. In both cases the peace and/or conflict potential of the context additionally depend on the manner in which the conflict was terminated. That is why the context in a country where peace came in consequence of a compromise of the conflicting parties will have different characteristics from that in another country where peace emerged from the defeat of one of the participants, or yet another where peace was externally imposed by a political and/or military intervention.

But, in each of these scenarios, the first necessary step is the transition of the country (society) from the state of war into that of peace. However, it is unlikely that this job may be successfully, or willingly, done by the protagonists of the recent, especially internal, conflicts. That is why prompt replacement of the warlords and their security elites becomes inevitable. Still, that should be only the initial step in the radical reform of the inherited security sector and apparatuses of force. As a principle, that equally applies to both the victorious and

[78] Filip Ejdus, "Security, Culture and Identity in Serbia," *Western Balkans Security Observer*, no. 7-8 (October 2007, March 2008): 39-64.

the defeated sides, although for different reasons. In the case of the former, to prevent the translation of the (unlimited) power acquired in a war into political power once the war has ended. In the second, in order to diminish the danger of redirecting the conflict inwards and of politically abusing defeat for the survival in power of the warlords and their executive agents. This assumption is proved correct by the war experience of Western Balkan countries. Namely, it was not before the main engineers of war, e.g. in Serbia and Croatia (Slobodan Milošević and Franjo Tuđman) left power in 2000, that the danger of the renewal of inter-state conflicts, i.e. their transformation into internal conflicts was diminished. That, naturally, did not remove the need for the reform of the inherited security forces and formations. Quite the contrary, this reform became urgent just as the prospects for its success were, at least nominally, increased. That, in the first place, required the replacement of the central corps of military, police and secret service power holders. The examples of Serbia and Croatia, naturally from different reasons, showed that this is not a simple matter. A part of the explanation should, in our view, be sought in the different characteristics and uneven effects of the post-conflict context in each of the above-mentioned countries.

Some could, of course, deny the existence of the post-conflict context in Serbia, invoking the fact that Serbia has never declared war on its western neighbours (former republics of the SFRY) and officially did not participate in the Yugoslav wars. Others could claim that a context of that kind emerged in Serbia only following NATO aggression on the Federal Republic of Yugoslavia (FRY) and the resulting exemption of Kosovo and Metohija from the jurisdiction of Serbia (May-June 1999).

If, for formal reasons, we conditionally accept the first claim, that will not remove the fact that numerous Serbian citizens, willy-nilly, participated in the wars in Slovenia, Croatia and Bosnia-Herzegovina (BiH) – initially as soldiers of the Yugoslav People's Army and then as combatants for the armies of Republika Srpska Krajina (RSK) or Republika Srpska (RS) and the FRY, as well as members of numerous paramilitary formations. That is, among other things, evidenced by the sentences returned so far by the Hague Tribunal condemning civilian and military commanders of western Serbian armies, as well as a smaller number of their subordinates, for crimes committed during the wars in Croatia and BiH. To this we should add the sentences of courts in Serbia, BiH and Croatia pronounced on the leaders and members of various paramilitary units fighting under Serbian flags. Let us recall that the ongoing trials in the Hague charge Milosevic's closest associates not only with military and logistic support to the military of the RSK and RS during the wars in Croatia and BiH, but also with crimes their subordinates reportedly committed against the Albanians in Kosovo and Metohija during 1998 and 1999. In the period from 1991 until 1999 the state of Serbia and its inhabitants actually lived not only in a war environment, but in a state of war, even if unproclaimed. However, far more important for the topic addressed here is the fact that throughout that period and even to

this date, Serbia and its population have suffered the disastrous social, political, demographic, cultural and security, consequences of their (non) participation in the above mentioned wars.

The second, essentially reductionist, argument is equally disputable, in the first place because it seeks to interpret NATO invasion of Kosovo and Metohija separately from the courses and consequences of the previous spillover of the Yugoslav Wars. Moreover, it wishes to exclude any responsibility of Slobodan Milošević and his regime for the wars on the territories of the former Yugoslavia and then also for the previous conflicts in Kosovo and Metohija and military-police repression, which ultimately not only encouraged and legitimised mass armed rebellion of the Albanians, but also served as a cause and excuse for NATO bombing.[79] That is why the already existing post-conflict context in Serbia after the withdrawal of the FRY army and the police from Kosovo (11 June 1999) only obtained additional characteristics and meanings. Above all, it became obvious that, notwithstanding Milošević's proclamation of victory over NATO, Serbia suffered a military and political defeat in KiM. At that time all negative consequences of the previous Yugoslav wars converged in the political, social economic and security spheres of Serbia and there, among other things, heightened the old and established new political and ideological divisions. Under the powerful influence of these consequences and the growing dissatisfaction of the majority of the population it did not take long before Milosevic's regime was deposed (5 October 2000).

However, it turned out that the enthronement of the new, self-defined as democratic, power only partly reduced, rather than removed all dangers for the outbreak of conflicts in Serbia. That was, among other things, due to the fact that the leaders of the DOS coalition, with their dissentions and conflicting interests, already on 6 October started to multiply and enlarge the conflict potentials of the inherited context. The lines of the existing and subsequent divisions and conflicts within the new authorities, as well as among citizens (voters) derived from two main sources and their numerous tributaries. At the manifest level, there was a political and ideological conflict concerning the pace, contents, scope, methods and objectives of the initiated and intended change. Some, led by the Democratic Party of Serbia (DSS) and the then FRY president Vojislav Koštunica, allegedly sought to change the old order, while preserving its constitutional and systemic foundations in the name of legalism.[80] In that they enjoyed strong support of parties from the former regime – Serbian Radical Party (SRS) and the Socialist Party of Serbia (SPS). Others, headed by the Democratic Party (DS) and the then Serbian prime minister Zoran Đinđić sought faster re-

[79] Miroslav Hadžić, *Bezbednosni dometi NATO intervencije na Kosovu* (Beograd: Centar za antiratnu akciju – Politički tim, 2000).

[80] Đokica Jovanović, "Legalitet ili diskretna odbrana nacionalizma," in *Revolucija i poredak*, eds. Ivana Spasić i Milan Subotić. (Beograd: Institut za filozofiju i društvenu teoriju, 2001).

forms and were inclined towards fast, and if necessary so-called revolutionary methods, to dismantle the old regime and remove its remaining proponents.

The ensuing events will show that the ongoing conflicts about the reform concealed diametrically opposed visions of the future image and set up of Serbia. That also created conflicts about who should lead Serbia, how and why. Some sought to usher Serbia into NATO and the EU as soon as possible, while others wanted to irrevocably tie it to the Russian Federation. Sharp disagreements also emerged in the interpretation of the Serbian present. That was followed by mutually opposed readings and use of the country's recent and ancient past for the purposes of daily politics. Along these lines the difficulties Serbia was facing were assigned to culprits from diverse parts and different times.[81] Under the pressure of the reality of crisis the emphasis on the Yugoslav wars and Serbia's role in them was soon transferred to the obvious consequences. At the same time, the point of political polarisation and crystallisation was displaced from the internal (social-economic) to the international sphere. Its very centre was immediately taken by the conflict concerning the implementation and fulfilment of Serbia's (FRY) obligations towards the Hague Tribunal, remaining there to this date. It was, in effect, only another name for the disputes concerning Serbia's role in the Yugoslav Wars. Vojislav Koštunica and his minions denied that Serbia had any responsibility for the destruction of Yugoslavia in the war, assigning equal blame to all actors of that time – former republics, nations and their leaders. In line with that, despite the FRY obligations undertook already by Slobodan Milošević, they first refused and then long delayed to extradite the accused of war crimes to the Hague Tribunal. True, that did not prevent them to patent and partially successfully apply the model of the so-called voluntary surrender of indictees from Serbia during the terms of office of two governments they headed (2003-2008). By contrast, Zoran Đinđić's government, after a brief hesitation and avoiding the debate on Serbia's contribution to the Yugoslav Wars, invoked the previously undertaken international obligations and decided to extradite some of the accused by the Hague, including Slobodan Milošević (June 2001).

Due to large differences and intense conflicts within the DOS, the reform discourse soon lost its primacy, and the Serbian public was again engrossed in major national and state topics. That was accompanied by parallel changes in the political map of Serbia, so that with the introduction of new lines of internal divisions and conflicts the relation towards the old regime soon ceased to be the central political watershed. The divisions primarily derived from an all-out and accelerated political search for the new – national and state - identity, but they were also the consequence of that quest. One side gathered the (self-proclaimed) holders of (fore)knowledge of the given and unchangeable

[81] Jovan Bajford, *Teorija zavere, Srbija poritv "novog svetskog poretka"* (Beograd: Beogradski centar za ljudska prava, 2006).

substance of the Serbian national identity, and believed that if it was to remain intact, Serbia and the Serbs should return to their roots in the teachings of St. Sava and their traditional values. In that effort they assigned themselves the role of principal interpreters and measurers of the national orthodoxy of others. The other side gathered all those who, however inarticulately, wanted to bridge the gap between modernity and tradition in Serbia and leave the national identity, even if unintendedly, open to (re)formation in line with the standards of the new times and its (Serbian) contemporaries. Thus the political elites again managed to divert the attention of the Serbian population from the difficulties of transition and to engage them in ontological inquiries of their self. Before them, Milošević, at least occasionally and partly, also managed to transfer the dissatisfaction of his subjects is Serbia and Serbs outside the republic, motivated by the breakdown of socialism and the second Yugoslav state into the fear from Others, and then engaged them in a (non-proclaimed) war for the final settling of historical accounts.[82]

Bearing in mind that a (new) war against the external others was then prohibited, the Serbs, directed by their elites to find another leader in their midst, once again plunged into an internal political and ideological showdown. This course of events was facilitated by the fact that due to the externally imposed peace, the forces and energies of war and destruction generated in Serbia during the 1990s were then turned inwards. Owing to that, the old, only now reshaped, and newly created obstacles to the successful implementation of the social and security sector reform converged, joined and became crystallised in post-Milošević's Serbia. Their growth was decisively assisted by the – political, ideological and interest – coupling of part of the new ruling elites disinclined towards reforms (to put it mildly), with war time elites, criminal groups and hidden parts of the state apparatuses of power. That outcome was further favoured by the hesitation of the so-called reform wing of the DOS concerning the scope and purpose of change in security services, the military and the police.[83] In that sense, the assassination of prime minister Đinđić (12 March 2003) clearly sig-

[82] Nebojša Popov, ed., *Srpska strana rata, Trauma i katarza u istorijskom pamćenju, vol.* I and II, 2nd. ed. (Beograd: Samizdat FREEB92, 2002).

[83] That is clearly proved by the fact that within a span of several days during July 2002, their MPs, first in the FRY parliament and then in the National Assembly of Serbia, adopted two completely differently approaches and formulated laws on security services. The war regulating the status of federal services included the necessary instruments and procedures for a democratic and above all parliamentary control and oversight of their work. By contrast, the law on the newly formed Security Information Agency (SIA) included no such procedures. The first case reflected the wish to place under control the military services, experienced as a major threat after the preceding arrest of the republic prime minister Perišić. The second case reveals the wish to subordinate BIA to the prime minister of that time (for more see Bogoljub Milosavljević, "Reforma policije i službi bezbednosti u Srbiji i Crnoj Gori: ostvareni rezultati i izneverena očekivanja," in *Smisao reforme sektora bezbednosti*, eds. Miroslav Hadžić, Milorad Timotić i Bogoljub Milosavljević. (Beograd: Centar za civilno-vojne odnose, 2004).

nalled the readiness of war-time elites and their, new and old, political representatives to spare no means for the preservation of their war gains. In other words, that was the sign of their determination to prevent the political and judicial establishment and sanctioning of their responsibility for the war and decline of Serbia, at all cost. That is why a series of military police incidents in 2001 and 2002, which culminated in the assassination of prime minister Đinđić, also show that the new authorities did not have efficient control over the apparatuses of state force. Furthermore, it became clear that the hidden parts of the military, police and secret services had sided with the reform's opponents and were prepared to place their forces at the disposal of the political restorers of the old regime.

In view of all that the (pro)democratic transformation of the post-conflict and post-authoritarian Serbia was throughout this period faced with new and additional security threats. Only this time they had internal origins. They were, among other things, the final product of the DOS' evasion to clearly present the Serbian public with its war balance sheet and face it with the resulting defeat, or, in other words, with the meanwhile increased cost of transition and the time squeeze for its implementation in Serbia. That is why in a situation marked by a periodically intensified social crisis it was not only possible to politically block the reforms, but also to actually contemplate the restoration of the old order. Owing to that, the dilemma whether the reform in Serbia has finally reached the point of no return into a non-democratic order, has not been fully resolved to this date.

Courses of securitisation and desecuritisation in Serbia

We should therefore ask ourselves why despite the peaceful replacement of the old regime a danger from the outbreak of internal conflicts persistently existed and occasionally even grew in Serbia. In other words, why the new government, as well as its opponents, went on presenting their differences concerning the course, purpose and price of transition as decisive for the survival of the Serbian nation and state.

Partial responses to these questions may be obtained if we analyse the context in Serbia using the concept of securitisation, conceived by the authors of the so-called Copenhagen School of security studies.[84] But before that, they - for analytical purposes - defined the existence of five security sectors – military, political, economic, societal and ecological – and thereby expanded the scope and meaning of the concept of security. Having done that, they analysed each

[84] Ralf Emmers, "Securitization," in *Contemporary Security Studies*, ed. Alan Collins. (Oxford: Oxford University Press 2007), 109–25.

of these sectors using their own concept of securitisation.[85] Within that exercise they established that the collective (national) identity was the main referencial object in the societal security sector. The national state, in that interpretation, appears as the meeting and interferential point (space) of collective identity and security.[86] These authors believe that what lies at the base of their security mutuality is the problem of survival of both entities.

That is why Waever finds security a self-referencial practice. Or, rather, an activity which, owing to the prevailing public discourse and the inherited political constellation gives certain events or processes a primarily security connotation. In line with that, he continues, security studies seek to examine the reasons and procedures which make a certain issue (event, process) a security issue.[87]

That is why the concept of securitisation is based on the understanding of security as a speech-act. Accordingly, to put it simply, Buzan and colleagues describe security as a specific procedure for the linguistic interpretation and formulation of an issue (event, process) in a given social (political) context. Security discourse, in their view, rests on the (political) dramatisation of that issue, i.e., event or process. This effect is attained by presenting and interpreting the issues, processes or events to the public as existential threats for the survival of their nation and/or state. Since a threat of this kind needs to be removed at once, the establishment (reestablishment) of security of the given state and/or nation is (ought to be) given absolute (political) priority. In that name, then, the proponents of power ask the public support for the use of special (extraordinary) powers and measures, i.e. acceptance of (a temporary) suspension and/or violation of the existing (constitutional legal and political) norms and procedures. In other words, bearing in mind that the survival of the nation and state is the supreme objective which justifies the use of all available means and methods, the public is requested to agree with the displacement of the resolution of the securitised issue from the political – constitutional and institutional – sphere. They furthermore say that if the public accepts and supports this request, one could conclude that the problem (event, process) concerned has been successfully securitised.[88]

Analogously, desecuritisation could be briefly described as a procedure of the linguistic (discursive) reinterpretation of an issue (process, event). In the course of this procedure the issue at hand is divested of the previously assigned security meanings and is therefore no longer presented and interpreted as a

[85] Barry Buzan and others, *Security: A New Framework for Analysis* (London: Lynne Reinner Publishers, 1998), 119–20.

[86] Ole Waever, "European Security Identities," *Journal of Common Market Studies*, Vol. 34, no. 1 (March 1996): 104.

[87] Waever, 104.

[88] Barry Buzan and others, *Security: A New Framework for Analysis* (London: Lynne Reinner Publishers, 1998).

threat for the survival of a nation and its state. Once that happens, the issue concerned re-enters the regular political flows and its resolution is undertaken only with political means and institutionalised procedures.

In order to successfully use the concept of (de)securitisation to improve the understanding of the features specific for the Serbian context, a previous quantitative and qualitative analysis would be required to look into the dominant discourses in the period observed (2000–2008). The same exercise should be used to learn about the main securitising actors and the types of social capital at their disposal.[89] The findings so obtained should enable us to identify the central topics (events, processes) of the previous or ongoing (de) securitisation procedures. At the same time, it would certainly be necessary to specifically examine whether the reform of the Serbian security sector or its individual actors was - and if so why, when, in what way and for how long a time - a subject of (de)securitisation, and with what consequences. After that, we should examine whether there have been any securitising processes in Serbia that ended with the agreement of the domestic public for the use of extraordinary measures and procedures. If, on the other hand, the agreement went missing, the reason for the failure of the specific securitisation would need to be established. Or, in cases of successful securitisation, we should find out whether the special measures had been abolished and if so when and why, and also what was the course the desecuritisation processes thereafter. Only after all these findings have been obtained sufficient conditions would be created for a more detailed examination of the type and degree of interconnection of the (de)securitisation process and the SSR in Serbia.

Bearing in mind that research of this kind has not been undertaken in Serbia so far, our insight into the courses of (de)securitisation will of necessity be hypothetical. That is precisely why we will, in this paper only attempt to outline its internal dynamics and indicate some of its possible consequences. We are willing to take this risk since we are convinced that even preliminary insights that have to be empirically checked and verified, or refuted, may throw additional light on the context wherein the Serbian SSR was pursued.

We will argue that securitisation was the component, important and accompanying part, as well as the final product of key political processes unfolding in Serbia since the mid-1980s. To that extent securitisation represented a form of their linguistic appointment and externalisation, as well as their sharpening and realisation. It, therefore, necessarily originated from the continuous and powerful internal and extreme politicisation of Serbia and the Serbian nations' survival and, in return, became the cause for an additional dramatisation of politics. No

[89] We must, at this point, recall the warning of Buzan and colleagues that the power for the performance of securitisation is asymmetrically distributed among actors, and that only those who can translate their speech act into action, may efficiently define security threats and alternative strategies for reaching security. See Barry Buzan and others, *Security: A New Framework for Analysis* (London: Lynne Reinner Publishers, 1998).

less can it be understood as a simultaneous discursive reaction to the systematic external securitisation of Serbia presenting it, ever since the early 1990s, as the main threat to the security of its closest neighbours and other ethnic communities, and the main culprit for the Yugoslav wars. The overall and lasting politicisation of Serbian survival tended to lead towards internal securitisation, which encouraged its actors to persist in repeated and new request to the public, and demonstrate willingness to leave the sphere of (regulated) politics resorting to special measures.

The causes and motives for securitisation in Serbia originated from different sources, which is why it assumed diverse forms. Its pace was uneven, and so as was its intensity. Consequently, its success was also changing. The narrow and wide contexts in which it was created and acted upon also demonstrated faster or slower changes. That is why the courses of securitisation in Serbia can only be properly grasped if understood as a part of interconnected processes of securitisation first in the SFRY and then also in the sub-region of the Western Balkans. When the Yugoslav war was joined by foreign interventionists, the number of securitising actors increased and the scope of securitisation was expanded. The same, naturally, applies to the processes of sporadic and/or gradual, i.e. temporary, desecuritisation of certain issues appearing in mutual relations between nations and countries of this region.

Furthermore, during the above-mentioned period and following the pace of change in power, the securitising and functional actors changed and replaced one another,[90] but partial changes were also noted in relation to the public, i.e. its susceptibility to securitisation. In the same vein the list of special measures for the application of which the agreement of the domestic public was sought, remained mainly imprecise and changeable, and not infrequently impossible to finalise. Despite all the changes, securitisation, in our view has been a constant, but also a determinant of the political and security dynamics in Serbia for the past twenty years. In that respect we could say that Serbia and its population have throughout this time been exposed to securitisation. To the same extent they simultaneously and continuously felt the adverse consequences of securitisation which then became new reasons for its occasional, more or less successful, renewal and intensification. That is, among other things, indicated by the fact that powerful securitisation in Serbia was initiated in relation to the events in Kosovo and Metohija in the mid-1980s only to see the same topic at its focus

[90] According to Buzan et. al. securitising actors are all those who through their speech-act name the main object of protection, and the existential threat for its survival as the basis to request the use of special measures. The above-mentioned authors assign this power to political leaders, state bureaucracy (including the military, police and secret service), as well as to the government, lobbyist and pressure groups (Barry Buzan and others, *Security: A New Framework for Analysis* (London: Lynne Reinner Publishers, 1998), 40. Functional actors, for them, include all those who substantially influence the dynamics of the security sector, i.e. those who could influence the taking of security decisions and expect some benefits from securitization (Buzan, 36).

in 2008, after the unilateral proclamation of Kosovo's independence.

That is why we may claim that securitisation in Serbia during the past 20 years developed in waves. It assumed diverse form and unfolded in several parallel, as well as crossing directions, passing through rises and falls. However, an occasional change of the referenc object or oscillations in its intensity were not necessarily an introduction to the desecuritisation of, to all appearances, merely temporarily abandoned or postponed topics.[91]

The first and decisive wave of securitisation in Serbia came in the late 1980s. It was inseparably linked with the mutual securitisation processes of the republics and national actors in the Yugoslav circle. The initial assumptions for interactive securitisation were created by the politically dramatised crisis of socialism. The crisis brought to the surface the fundamental Yugoslavia's deficiencies and controversies and their combined securitisation soon became the key precondition for its political and then violent disintegration. The gradual abandonment and then rejection, of the socialist idea and order irrevocably deprived the second Yugoslav state of its legitimacy. The ensuing disputes concerning the form of the future political community (confederation vs. modern federation) were soon transformed into national conflicts and animosities. For that purpose a new and different past was produced on daily basis to become the main proof that it would be not only impossible, but also damaging, i.e. dangerous, to remain in any kind of a Yugoslav community. Thus the way of exiting Yugoslavia soon became the central point of disputes, and therefore also of mutual securitisation. Bearing in mind that national-republic elites were unwilling and/or incapable of reaching an agreement on its abolishment, that resulted in unilateral withdrawals which than became the cause for the violent re-tailoring of Yugoslavia.

The public scene in Serbia was, at that time, dominated by two, initially mutually conflicting, discourses, whose protagonists belonged to different political options and cultures. The proponents of the first discourse – the ruling political elite gathered around Slobodan Milošević, and the academics, poets, media men and generals riding on his coattails – long used the communist and ideological key to explain the crisis of socialism and Yugoslavia. They presented themselves as defenders of both. Moreover, even after the war had started and they were forced to openly legitimise themselves as the only authorised protectors of the Serbian nation – eliciting powerful support of the Orthodox clergy and the opposition of the day – they were not prepared to abandon "Yugoslavia" as a project, naturally one designed according to their understanding of the Serbian national and state interests. That is why it was possible for Slobodan Milošević to guard Yugoslavia and keep it alive all that time, invoking the

[91] A warning of a danger from renewed extreme politicization, and potentially also securitisation of Serbian-Croatian relations, may be seen in the reactions of the public in Belgrade and Zagreb to the decision of the International Court of Justice in the Hague to declare its jurisdiction in the case of Croatia vs. Serbia, wherein the accused party is charged with genocide.

struggle for the protection of allegedly Serbian interests, and for Serbia to finally (2006) obtain state independence against its will, i.e. by a plebiscitary decision of Montenegrin voters.

In parallel with Slobodan Milošević the scene was entered by diverse proponents and engineers of another and different discourse. Depending on their ideological orientations, they presented the crisis of socialism either as an opportunity to restore the Serbian monarchy and its 19th century tradition, or a chance for a democratic renewal of Serbia and Yugoslavia. Despite the differences existing between the power and the opposition during the 1980s and 1990s – with the exception of few advocates of the liberal-democratic and civic option – both discourses rested on a series of common postulates and were built around similar narrative courses and constructs. Furthermore, the power and the opposition continuously competed for primacy in construing the reasons for war and armed action to save the Serbian nation.

That is why, despite situational variations, securitisation had a firm and unchangeable thematic core. Its centre was continuously taken by the problem of survival of Serbs and Serbia, i.e. the fear that the unilateral abolishment of Yugoslavia and the emerging of new states – reportedly designed and sponsored by foreign interventionists – would fatally endanger the Serbian national and biological substrate. The domination of the conspiracy-based and essentially self-amnestying[92] interpretation of the causes and reasons for the violent destruction of Yugoslavia inevitably lead to self-victimisation.[93] Consequently, Serbs and Serbia were – in the first place to themselves - presented as the innocent victims of an (international) anti-Serbian conspiracy.

Out of this core emerged three mutually connected and unchangeable lines of securitisation in Serbia. Along the first line, the Serbian actors permanently securitised the international community and its main exponents (USA, NATO, Germany, etc.). The list of the latter was naturally changeable and situationally conditioned, and occasionally included the Vatican, Austria, Great Britain etc., as required. The second line led to the securitisation of the Yugoslav partners and rivals (nations and republics) at the time, and resulted in their presentation, first as adversaries in the political and national spheres and then also in war. The third line had to do with the internal Serbian securitisation of its own based on a binary and Manichaean construction of "true Serbian patriots" and "traitors of Serbdom".

On top of all that, the Serbian (self)securitisation was from the very beginning geographically, as well as thematically, decentralised and pluralised. The circle of leading securitising actors outright included the leaders of political and national movements (parties) of Serbs outside Serbia, and especially those in

[92] Miroslav Hadžić, *Sudbina partijske vojske* (Beograd, Samizdat FreeB92, 2001), 9–32.

[93] Vlasta Jalušič, "Rod i viktimizacija nacije," in *Nasilno rasturanje Jugoslavije*, ur. Miroslav Hadžić. (Beograd: Centar za civilno-vojne odnose, 2004), 145–66.

Croatia[94] and BiH. They thematically expanded and strengthened securitisation by reviving the Serbian traumas from World War II. They justified their securitising acts by the fact that they were faced with the renewal and fast growing extreme Croatian and Bosniak nationalism of Serbophobe provenance. Their thus emitted concern for the fate of the Serbian nation became still more convincing after the electoral victory of Franjo Tuđman and The Croatian Democratic Union (HDZ) i.e., Alija Izetbegović and his Party for Democratic Action (SDA) in Croatia and BiH respectively.

The first wave of securitisation, with the full cooperation of actors from the Yugoslav republics and nations at that time, ended in June 1991 when their populations entered a mutual war. It encompassed all members of the Serbian ethnic community in Yugoslavia, as well as all inhabitants of Serbia at that time. Then came the second, multilayered and multidirectional wave of securitisation which lasted from the outbreak of the Yugoslav war until the overthrow of Slobodan Milošević.

In the Serbian circle, the dominant discourse was formed in line with the dynamics of the war, and the initial successes, as well as subsequent defeats of the Serbian militaries and paramilitaries. It was equally conditioned by the pace and scope, as well as consequences of the direct third-party interventions in the Yugoslav wars, i.e. the pace, scope and consequences of the external imposition of peace solutions.[95] Consequently, during this period, the Serbian actors were forced to change the referenc objects and emphasis in the process of securitisation. Thus, for instance, the central referenc object until the signing of the Dayton Agreements (1995) was derived from the direct war danger for Serbs outside Serbia and their state-like creations – RSK and RS. After Dayton came the renewal, and soon predominance, of the Kosovo securitising cycle, centering on not only the political, but also physical survival of the Serbian state and its inhabitants. In parallel, and in line with the war costs and losses, as well as preparations for war in Kosovo and Metohija, Milošević's regime increased the securitisation of its survival in power. In order to achieve that it, once again, assigned the opposition the status of the internal and national enemy and – in the form of proposed legislation on terrorism, university and the press – turned to the public with requests for the use of special measures against the opposition. After the forced withdrawal of Serbian armed formations from Kosovo and Metohija, Slobodan Milošević, until his removal from power, had only the opposition left to securitise. And *vice versa*.

Despite the war context and warmongering propaganda, as well as the Caesaristic involution of Milošević's order, the second wave of securitisation in

[94] For more on the courses of securitization of the Serbs in Croatia see a study by Ozren Žunec, *Goli život: socijetalne dimenzije pobune Srba u Hrvatskoj* (Zagreb: Demetra, 2007).

[95] Haakan Wiberg, "Third Party Intervention in Yugoslavia: Problems and Lessons," in *Organized Anarchy in Europe*, eds. Jaap de Wilde and Haakan Wiberg. (London: Tauris Academic Studies, 1996), 203–26.

Serbia was not successful. That was due to the fact that the domestic public, or at least the major part, did not endorse the special measures which the regime never introduced, however paradoxical this may seem. That is why we could sooner say that we saw in Serbia in the 1990s only the materialisation and the final consequences of the successfully belligerently finalised first wave of securitisation. That is, among other things, supported by the fact that from the very beginning Slobodan Milošević resolutely, although at no time publicly and explicitly, refused the requests of leaders in the Western Serbian lands to be joined to Serbia. He equally persistently avoided to officially usher Serbia (FRY) into the Yugoslav war. In addition, despite the mass persecution and exodus of Serbs from Croatia, Serbia (FRY) did not wish (dare?) to make a military response to the final operations of the Croatian armed forces ("Flash" and "Storm"). To all this we should add the failure of several mobilisations in Serbia and the continuing increase of desertions, so that the regime had to fill the ranks of western Serbian armies by force. The resistance of a part of Serbia's population to securitisation is additionally revealed by the fact that despite the proclamation of the state of war after the start up of NATO aggression on the FRY (Serbia) and the reality that Serbia then, for the first time, had a clear, proclaimed and justified war objective, mobilisation was evaded by about 27,000 military conscripts. This list should be completed with the observation that the rapid growth of the internal – civic and political – resistance prevented Slobodan Milošević to openly establish a dictatorship in Serbia at the close of 1999.

After the electoral breakdown of Milošević's regime, the third wave of securitisation unfolded in a substantially changed context and with variable intensity. One could even say that it was actually the case only of cyclical and abortive attempts to renew securitisation. This conclusion, it seems, cannot be disputed even by the introduction of the state of emergency following the assassination of prime minister Zoran Đinđić, because it was an *ad hoc* decision of the incumbent government, which not only legalised operation "Sabre" but also initiated securitisation of organised crime in Serbia, oscillating as it was.

That is why securitisation in time became/remained only one of several potential denouements of the powerful and continuing politicisation of Serbia on the inside, all the more because it kept losing strength due to the parallel start up of desecuritisation processes. Thus, for instance, the relation between the power and opposition in Serbia was gradually desecuritised. That is undeniably proved by multiple peaceful changes of parties in power – although for the time being only those from the original nest of the DOS – as well as overall acceptance and respect of the existing electoral rules and procedures. That is evidenced by the Socialist Party of Serbia's recent coalition with the Democratic Party, allowing the Democrats to form the government. In all truth, election campaigns in Serbia have been charged with mutually securitising moves and meanings, but have not been accompanied by requests for the use of special measures.

Similarly, in step with Serbia's return to international organisation, and in

view of its strategic option to join the Euro-Atlantic community, the Serbian authorities started gradual desecuritisation of the key international actors (USA, NATO, EU), and then also of their closest neighbours. Naturally, this has not completely removed the attempts for their renewed securitisation during the, truely feigned, negotiations on the status of Kosovo, i.e. after the above-mentioned international actors appeared as the champions of international recognition for this self-proclaimed state.

Furthermore, we could also say that in Serbia the topic of Kosovo has, in the meantime, actually lost its securitising charge of previous times. That happened despite the powerful securitising moves of the then prime minister Vojislav Koštunica and his allies – the largest opposition parties (SRS, SPS) and ultra-rightist and nationalist movements. He, namely, first tried to securitise the parastatal terror of the Kosovo Albanians over the Serbs in March 2004, and then also the self-proclamation of the independent state of Kosovo in February 2008. Let us note that in the meantime he also –unsuccessfully – tried to securitise the plebiscitarily-achieved independence of Montenegro. This thesis is supported by the fact that in none of the above mentioned occasions did Vojislav Koštunica officially request the introduction or application of any special measures. One could rather say that it was only an attempt to take advantage of the Kosovo theme and use the securitising form of the extreme politicisation and danger for Serbia and Serbs for the showdown with internal political opponents and the strengthening of his own power.

During the above mentioned two decades, the vortex of the Serbian securitisation necessarily caught its security sector. Namely, it first enveloped the state, and after the outbreak of the Yugoslav war, also the non-state power holders: the military, police, secret services, paramilitary and parapolice forces, as well as private and party armed formations. One of them, e.g. the Yugoslav People's Army appeared independently as a securitising as well as functional actor at the end of the Yugoslav political crisis. After that, from the outbreak of the war until its disappearance (1992) it lost all political influence and then professional autonomy.[96] Some, for instance the secret services, were the key moderators of violence and thereby functional actors which had sufficient hidden power to influence the security dynamics in Serbia and the war dynamics throughout Yugoslavia.[97] All other formations were mere instruments in realising the supreme political will of Milošević's regime. It is therefore hardly surprising that during the 1990s the regime gave the police the role of the internal military, i.e. the role of its main protector, and militarised it for that purpose. Furthermore, the main task of all paraformations was to use ethnically motivated terror to instigate, spread and transfer the war to all the regions outside Serbia inhabited by Serbs.

[96] Miroslav Hadžić, *The Yugoslav People's Agony* (Hampshire: Ashgate, 2002).

[97] Miroslav Hadžić, "Moderatori nasilja – skrivena strana yu-rata," in *Nasilno rasturanje Jugoslavije*, ed. Miroslav Hadžić. (Beograd: Centar za civilno-vojne odnose, 2004), 133–44.

To that extent their activity may be understood as a form of violent materialisation of the main securitising course, as well as a form of a self-renewing and frightening securitisation on the local (micro) level.

That is why it was impossible to expect any reform of this sector and/or its actors for the duration of Milošević's regime. Moreover, they were irrevocably harnessed to the war and political needs of the autocratic regime and accordingly formed, or reorganised, as required. Therefore, the reform of this sector, and above all the reform of state apparatuses of power, became fundamentally possible only after the ascent of the DOS coalition. However, this possibility, as subsequent events proved, remained largely unutilised. That outcome was strongly favoured by the previously outlined third wave of internal securitisation.

Namely, due to the protracted public production of fear the reform of the security sector itself soon became securitised in Serbia. Its opponents presented any deeper attempt at reorganisation (e.g. in the military), or Serbia's orientation towards security integration into NATO and/or the EU, as a deliberate move to weaken its defence abilities and a step towards an irretrievable loss of state sovereignty and national identity. The securitisation of the SSR, on its part, gave rise to several types of consequences which immediately became obstacles for its successful implementation. While politically using their ongoing securitising acts, the holders of power acquired, among other things, an alibi for their postponement of a radical SSR, i.e. an excuse for the establishment of party or personal control over the state apparatuses of force. Following the course of securitisation they simultaneously renewed and imposed a state-centric approach to security and so equipped restored the monopoly of political elites in defining and reaching the national security. By keeping it again in the domain of high policy, namely within their own competence, they additionally tabooed it. They, therefore, did not even try to legally regulate the domain of the state and military secrets, thus leaving room for their discretionary interpretation and use. By doing that they have again displaced the security of the state and nation out of the public sphere, and prevented its critical review. At the same time they sidetracked the problem of citizens' (in)security, and in functional and political terms, subordinated it to the security of the nation (collectivity) and state. That, on its part, helped them to remove the pressures of the part of the public which expected and/or demanded a radical SSR. To make things worse, they simultaneously relieved themselves of the obligation to deal with the inherited war-related baggage of the Serbian armed formations, and establish and sanction their performance in the war. This naturally yielded direct benefits for the local security elites. They were, first, allowed to remain in power after Milošević's defeat, and were then tacitly relieved of the responsibility for the Yugoslav war and decades long terror over the Serbian citizens. Owing to that, Milošević's military and police generals, as well as leaders of secret services, i.e. their successors, retained executive control over the course and pace of the SSR, and especially over the changes in the state apparatuses of power.

Additional measuring difficulties

One could, therefore, rightly wonder whether the new authorities have already missed the opportunity to irreversibly embed the democratic order in Serbia. A positive answer triggers additional questions as to where, when and how that opportunity was let slip. But before these responses are provided, it would be necessary to establish where, how and why the reform in Serbia got stuck. Figuratively speaking, it would be necessary to find the transition "plugs", which made Serbia's hovering "somewhere between" for too long a time.[98] To make that possible we need to know why some changes in Serbia did take place, and how.[99] It would then be easier to explain how some of the announced, i.e. necessary, changes went missing. Only when additional research has addressed these unknown quantities will it be possible to interpret the modest SSR results in Serbia with a higher degree of reliability. That would, on its part, increase the prospects for greater reliability in measuring the influence of the domestic context and the prolonged securitisation on the courses and achievements, i.e. deficiencies in the reform of this sector and the state apparatuses of force. That would require the examination, and then also the removal, of some additional difficulties that may appear in measuring and evaluating the hitherto results of the SSR in Serbia.

The events after the deposing of the former regime warn that the achievements in the reform of the security sector in Serbia largely depended on the way in which the domestic elites and proponents of power understood and interpreted the contents and objectives of this undertaking. That is why we should ascertain why the DOS leaders overlooked the glaring warning that in a post-authoritarian and post-war - and internally deeply divided - Serbia it was impossible to create even the initial assumptions for the establishment of a democratic order without a simultaneous and radical reform of the entire security sector. Or rather, we should find out why their approach to the SSR remained reductionistic throughout this time.[100] They, making the first step, reduced this undertaking to limited and dosed changes in the military, the police and secret services. Moreover, they not only omitted to promptly disempower Milošević's agents of force and violence, but actually expected them to be the main propo-

[98] Dušan Pavlović and Slobodan Antonić, *Konsolidacija demokratskih ustanova u Srbiji posle 2000. godine* (Beograd: Službeni glasnik, 2007).

[99] This is all the more urgent, bearing in mind the theses about the decisive role of foreign states and their services along with their "domestic mercenaries" in overthrowing Slobodan Milošević have been rife in the Serbian public for quite some time already. There are also other theses with the same meaning, to the effect that the electoral overturn became possible only when the top ranks of secret services and their criminalised followers denounced Slobodan Milošević to preserve their own interests.

[100] Miroslav Hadžić, "Dometi reforme sektora bezbednosti u Srbiji," in *Reforma sektora bezbednosti u Srbiji*, ur. Mirolav Hadžić. (Beograd: Centar za civilno-vojne odnose, 2007), 13–18.

nents of change. Therefore, the new power holders in the next step reduced the reform to reorganisation, presenting the changes in the numerical composition, internal organisation and formation of these apparatuses as the main and only content of the reform.

That left the - state and non-state - holders of security authorities in Serbia out of sight of the general and professional public. That is why the powers granted to tax and customs authorities to apply special measures for secret control and oversight of citizens, traditionally within the competence of security services, went unnoticed. Furthermore, these new holders of (secret or hidden) power over the citizens and society remained beyond the reach of parliamentary control and public control and oversight.[101] In the same way, despite the enormous increase in the number of private companies offering security services, the scope of their activities and their competencies have not yet been regulated by a special law.[102]

Still worse, the reform of the security sector in Serbia was (is) most often approached in a piecemeal fashion. That is, among other things, evidenced by the way in which the current holders of power have regulated the security sector in the Serbian Constitution.[103] They have, namely, once again missed the opportunity to use this act in order to, for starters, define and regulate a single security sector and system. Moreover, the constitution makers omitted (avoided?) to institute the National Security Strategy and form the National Security Council. It is therefore small wonder that Serbia still does not have its National Security Strategy. Furthermore, the Serbian Armed Forces still rely on the defence strategy inherited from the State Union of Serbia and Montenegro and continue to make do without a Military Doctrine.

At the same time, the Constitution has placed only the military under democratic civilian control, while the police, secret services and other parapolice forces still remain beyond its reach. On top of that, proper constitutional, legal and institutional frameworks and procedures for cooperation within the security sector do not exist. Not surprisingly changes in each of the above-mentioned apparatuses are isolated and develop independently from one another. For example, there is no proof of even an indirect conceptual, strategic or operational connection between the changes taking place in secret services, the police and the military. That is why operational cooperation among actors in the security sector, and especially those who use power, directly depends on the good will of their leading professionals and the current personnel (party) composition of

[101] Miroslav Hadžić i Predrag Petrović, eds., *Demokratski nadzor nad primenom posebnih ovlašćenja* (Beograd: Centar za civilno-vojne odnose, 2008).

[102] Sonja Stojanović, ed., *Privatne bezbednosne kompanije u Srbiji – prijatelj ili pretnja?* (Beograd: Centar za civilno-vojne odnose, 2008).

[103] Bogoljub Milosavljević, "Ustavno pravni status policije i drugih snaga bezbednosti u Srbiji posle donošenja Ustava 2006. godine," in *Zbornik predavanja sa IX Škole reforme sektora bezbednosti*, ed. Pavle Janković. (Beograd, ISAC Fond, 2007).

the cabinet and relevant ministries. All this is, still, the expected result in the absence of a state strategy and plan to implement the reform of the armed forces, i.e. the security sector. To make things worse, the competent bodies have thus far failed to present the public with any kind of government calculation related to the price of intended reform. Still less is known about the possible sources of the required funds.

Taking all this into account, the question is whether it is at all possible to holistically measure the security sector reform in a country wherein the related concept has never been officially adopted and applied, i.e. a country where an all-comprising security sector has not yet been functionally and institutionally established.

We should also bear in mind that the SSR concept reached first the academic and then the political circle in Serbia, from the Anglo-Saxon part of the donor community through international NGOs, such as the Geneva Centre for the Democratic Control of Armed Forces. That is why the reception of the SSR concept, and especially its application, largely depended on the political dynamics in Serbia and the state of its (bilateral, multilateral) relations with the concept's exporters. Furthermore, the domestic public does not have access to data on the forms, amounts and effects of the state and non-state, material and non-material assistance thus far provided to Serbia by foreign actors (individual states, international governmental and/or non-governmental organisations) in the reform of its security sector. There is no knowledge either about the donors' view of the ways their assistance was used, and who benefited from it. Still less is known what the beneficiaries in Serbia – state institutions and bodies, and civil society actors – think about the received assistance, i.e. their use of it and its effects.

Moreover, any attempt to measure the results of the SSR in Serbia faces several more methodological and cognitive obstacles. They naturally include those that may arise in the collection and processing of the available empirical material. It is an open question whether that material is sufficient to reliably (e)valuate the courses and achievements of the above mentioned reform. The available material, for the time being, comprises detailed findings of analysing the application of the SSR concept in the transition of non-democratic (illiberal) orders in Croatia, i.e. Serbia.[104] In addition, most of the key changes carried out in some state apparatuses of force in Serbia in the past few years have also been inventoried. But, these data come from secondary sources which do not provide a sufficiently trustworthy image of the SSR courses and problems in Serbia.

The next problem arises in determining the time-point when the registering and then also measuring of the reform's results should start, because due to the recently ended wars the transition calendar counting the time as of the fall

[104] Timothy Edmunds, *Security Sector Reform in Transforming Societies – Croatia, Serbia and Montenegro* (Manchester: Manchester University Press, 2007).

of the Berlin Wall (1989) does not apply to Serbia, or for that matter other Yugoslav states, except Slovenia. Therefore, the overthrow of Slobodan Milošević (October 2000) is most often taken as the starting point of pro-democratic changes in Serbia.[105] It would be equally possible to start the reform chronology in Serbia from the date of its state independence (May 2006), forced by the acts of Montenegro. That is because the prolonged survival of the Federal Republic of Yugoslavia (1992-2003), i.e. the State Union of Serbia and Montenegro (2003–2006) inevitably influenced the pace and achievements of Serbia's security sector reform, at least because of the fact that in this period the military and the defence were, at any rate nominally, within the competence of the federal state. Furthermore, we should also bear in mind the parallel existence of three relatively separate security systems – one each in the two member states and the Union – which, far from being interconnected and coordinated, were actually mutually competitive. And in the case of Montenegro, the other two were also treated as potentially hostile.

We could, then, say that Serbia obtained the necessary conditions to create its security sector and efficiently manage its reform, only after it had renewed its statehood and adopted a new Constitution (2006). Consequently, the post-Milošević period which Serbia spent in the union with Montenegro could be defined as a stage of reform incubation and accumulation, when most of its state apparatuses of force were only reorganised, as well as a period wherein it lost the momentum, or dissipated and dispersed the reform energy derived from the replacement of the old regime. One could therefore rightly wonder if the reform of this sector has passed the critical point, primarily because the democratic order in Serbia has not been firmly embedded yet, which leaves the possibility for internal political (involutive) about-turn.

The next step faces us with the problem of choosing (defining) a benchmark to measure the achievements of the security sector reform in Serbia. At first sight it may seem that it could be solved by comparing the Serbian reform with the achievements of the same processes in Central European, i.e. other Western Balkan countries. However, both choices are deficient for several important reasons. In the first case, the fundamental similarities between Serbia and former real-socialist countries lost their importance, i.e. were no longer comparable after the violent dissolution of the second Yugoslav state. The war, namely, prevented and for a long time postponed the exit of its constituent members (newly created states) from socialism (authoritarianism). Moreover, the non-democratic order in Serbia not only used these circumstances to secure itself a new (ethno-religious) legitimacy, but also started to assume totalitarian (Caesaristic) features.

At this point it would be possible to identify additional similarities between

[105] Ivana Spasić and Milan Subotić, *Revolucija i poredak* (Beograd: Institit za filozofiju i društvenu teoriju, 2001).

the war-created orders in Serbia and those in other states emerged from the second Yugoslavia. That particularly applies to Croatia during the rule of Franjo Tuđman (1991–2000). In view of all that, it seems that it would be justifiable to comparatively measure and evaluate only the achievements in the security sector reforms of Western Balkan countries, primarily Serbia and Croatia. That, however, gives rise to a new set of intractable problems.

Namely, the immediate question is if, and to what extent, the achievements of the security sector reforms in the above-mentioned countries were conditioned by the results of the Yugoslav war, or rather the question of how to establish and measure the possible influence of the war heritage on the SSR?

Despite the differences between the local actors concerning the causes of the war, and despite the fact that it was stopped (prohibited) only by means of foreign intervention, there is no doubt that some came out of it victorious, while others were defeated. It would be reasonable to expect that reform is easier to pursue in a winning than in a defeated country. Naturally, providing that they have started a democratic transition of their societies and states. However, it would be possible to offer fundamental reasons in favour of the opposite claim. We should recall that the military and other apparatuses of force along with the victory in a war also acquire substantial political power, which they are reluctant to relinquish after the end of the conflict.[106] If in the process they also acquire the status of state creators, as is for instance in the case of Croatia,[107] they can only be expected to demonstrate increasing resistance to any change, especially if it can endanger their acquired power and privileged position in the society and state. The case of Serbia, on the other hand, warns that a military, especially non-recognised, defeat, does not necessarily lead to the reduction or abolishment of the power acquired in the war by the military-police and secret service elites. On the contrary, their resistance to reforms may even grow.[108]

There is no doubt, e.g., that Croatia came out of the war victorious. That is why it not only became an internationally recognised and sovereign state in the inherited borders, but also provided a lasting solution to the Croatian national issue. This cannot be denied even by the fact that Croatia attained its objectives, among other things, but the mass banishment of the Serbs in operations "Flash" and "Storm", i.e. that it was directly involved in the war in BiH. Victory, however, did not spare Croatia the trials and difficulties of transferring its state and society from a state of war into the one of peace. It is therefore small wonder that the reform of its security sector gained momentum only after the death of Franjo Tuđman and the replacement of his regime at the elections. However, it would be reasonable to assume that the victory facilitated the agreement of

[106] Semjuel P. Hantington, *Vojnik i država* (Beograd: CSES, Diplomatska akademija, 2004).

[107] Ozren Žunec, *Rat i društvo, Ogledi iz sociologije vojske i rata* (Zagreb: Naklada Jesenski i Turk, Hrvatsko sociološko društvo, 1998).

[108] Miroslav Hadžić, *The Yugoslav People's Agony* (Hampshire: Ashgate, 2002).

the domestic citizens and elites concerning the pace and objectives of reforms in Croatia. In the same way it (the victory) actually served as the crucial proof for Croatia to subsequently deny any responsibility for the outbreak of the Yugoslav war. With the firm option to enter NATO and the EU the local elites (inadvertently) gave the reform of the Croatian security sector a different meaning. By placing the emphasis on the fulfilment of conditions for, even if only formal, attainment of Euro-Atlantic standards, they relieved this reform undertaking of the inherent political charge, which inevitably appears whenever the nomenklatura's control of the state apparatuses of power acquired in a war is to be reduced and/or limited.

A proper answer to the above-mentioned question is much more difficult to find in the case of Serbia. It is so because the claim that Serbia (FRY) did not officially participate in the Yugoslav war seeks to render this question pointless. It, moreover, tries to avoid any serious talk of its role in the disintegration of Yugoslavia. The fact that during the 1990s Serbia did not officially declare a war on anyone does not change the reality that the war was ended with the historical defeat of Serbian political elites. It is also doubtless that the elites have delivered the disastrous consequences of their defeat to all other members of the Serbian nation and citizens of the Serbian state. That is why the political life in Serbia, and more, is based on a paradox. Power-greedy elites and their devotees among the citizens (voters) resolutely reject any thought of Serbia's defeat, but for all their efforts cannot avoid its consequences. That is why it appears that the defeat, whether publicly acknowledged or not, represents the nodal point of the Serbian transition vortex. And since it is unrecognised, its place is again filled with delusions about a world-wide anti-Serbian conspiracy, which is then used to hatch and generate ideological and emotional resistance to the modernisation and democratisation of Serbia. They, naturally, conceal wholly measurable economic and political (party) interests of their leading spokesmen. Consequently, evidence substantiating the thesis that the pace and achievements of transition in Serbia, and therefore also of its security sector reform, have to this date been defined by the unrecognised (hidden) defeat, may be obtained only indirectly. In other words, it may be reached through the research of the numerous forms of the political and public escape from the need to face the defeat, and the examination of methods for its persistent concealment and renaming.

This process should also revise a set of dominant reasons invoked in the explanation and/or justification of the difficult course and feeble results of the SSR in Serbia. Most of them would immediately lose the enchanting attributes of simplicity, self-explanatoriness and universal applicability. A typical example is the explanation that the main causes for the postponed and/or blocked reform, not only of Serbia's security sector, derive from the lack of political will of those who have governed it since October 2000.

But, it is not at all easy to define the meaning and contents of the "lack of

political will" as a qualifier. To this we should add the difficulty of establishing its indicators, i.e. difficulties in measuring its scope and intensity. Only after that will it be possible to look for the sources and ways for its creation and renewal. It seems, therefore, that this should be preceded by a serious debate on the relation between the desirable, the possible and the so far accomplished in the attempted democratic transition of Serbia. Failing that, we would be facing a danger to arbitrarily and on the basis of our personal preferences, single out specific manifestations of the current lack of political will among those who govern Serbia today. This danger may initially be avoided with the analysis of the security sector reform status, assigned to it by the ruling political parties in their visions of the Serbian democratic transformation.

A cursory look at the dominant discourse indicates the political division in the two processes. Therefore, there is not enough evidence to convince us that the power holders in Serbia understand their fundamental interconnection and interdependence. Hardly surprising, the pro-democratic reforms of the society and security sector in Serbia are, so to say, unfolding separately from one another. That can also be explained by the fact that a state-centric way of understanding security still prevails in Serbia. This situation is favoured by the internal and international controversies concerning the present and future status of Kosovo and Metohija. For the purpose of our deliberation, it is important to note that not only the power, but also the opposition in Serbia have intensively securitized this topic, and thus produced intractable obstacles to further reforms of the security sector and the entire society. It is, therefore, not easy to understand why the proponents of power are avoiding and deferring the definition and proclamation of their own security policy and strategy. One could, for instance, doubt that they have used this manoeuvre to leave themselves enough room to change Serbia's foreign-policy and security orientation in line with their daily needs and interest.

Also missing is reliable knowledge on the proportions and effects of the possible, and entirely expectable, resistance to reforms in the state apparatuses of force. That is also suggested by the fact that sporadic personnel changes in the military, police and secret services have never been explained by the need to speed up the SSR, but came in consequence of electoral change of governing parties. It is still more difficult to find out whether, and to what extent, the security elites are committed to the reform, i.e. to establish the beginning and end of their verbal mimicry and pretense of change.

Not surprisingly, parts of the public, and especially the media, predominantly believe that the main responsibility for the slow reform of e.g. the military, police and secret services rests with the generals, i.e. directors of security agencies. They lose sight of the fact that these people ultimately only execute the political will and decisions of civilian holders of power. That, naturally, does not cancel the fact that the generals and directors with the power they posses can indeed obstruct the reform. We, however, wish to say that the state appa-

ratuses of force cannot reform themselves, even if they wanted. In order to do their job properly they have to obtain clear and precise instructions and orders from the civilian authorities. That, on the other hand, obliges these authorities to create all the necessary conditions and assumptions for the successful reform or the armed forces. Therefore, the key responsibility for the course and results of the security sector reform in Serbia rests with parliamentary political parties and their representatives who hold the key state functions. Only then should the leaders of each of the armed forces' components be added to list of the responsible. Because, even if the generals or directors do fail, that should not happen to those in whom the citizens have vested the right to manage the security sector, i.e. exercise command over the holders of state power on their behalf and in their best interest.

PART THREE

SECURITY SECTOR REFORM IN THE REPUBLIC OF SERBIA

Chapter I
STATUTORY ACTORS THAT USE FORCE

Military

Đorđe Popović

The Serbian Armed Forces (VS) were formed in 2006 in the wake of numerous changes in the political and military configuration on the territories of the former Yugoslavia, most recently following the disintegration of the State Union of Serbia and Montenegro. This development was, however, merely the last stage of a much longer and complex process. It started at the beginning of the Yugoslav wars in the 1990s when the Yugoslav Armed Forces (VJ, 1992–2003) emerged from the Yugoslav People's Army (JNA, 1941–1992). The VJ was subsequently renamed the Armed Forces of Serbia and Montenegro (VSCG) in line with changes in the political union. The latter, however, remained operational for only three years (2003 – 2006).

Consequently, the Serbian Armed Forces inherited all the major social and professional traits of its predecessors. Reform has been substantially conditioned by the nature and content of this legacy as well as problems with democratic consolidation following the toppling of Slobodan Milošević's regime in October 2000. Thus, the reforms in the Serbian military carried out over the past two years should be analysed and understood as a continuation of the changes initiated or (un)accomplished by the SMAF. By the same token, the present slowdown in the pace of reforms in the armed forces can largely be explained by first analysing the role of those in power in Serbia, the FRY and the State Union of Serbia and Montenegro after the year 2000. The changes in the military over the past eight years were strongly influenced by the political turmoil in Serbia, the post-conflict and post-authoritarian context in which the armed forces developed, and the lingering union with Montenegro. As a result it is hardly surprising that the approach of the ruling elites to the reform of the armed forces was driven by everyday political needs and interests. In addition, reform was for a long time slowed down by the absence of clear constitutional and legal provisions properly regulating its status, missions and tasks. Furthermore, the civilian chain of command over the military was not precisely defined, and the armed forces were, in effect, beyond the reach of democratic civilian control. These summary findings will be explained and substantiated in greater detail in the first part of this paper and will enable us to identify and evaluate the results of the Serbian Armed Forces reforms from 2006 until the present date.

The Legacy of the Serbian Armed Forces

The reforms of the VS were influenced both by the Yugoslav wars of the 1990s (although Serbia did not officially participate in the conflicts) and the post-authoritarian environment. However there has been no attempt to analyse the true impact of these legacies.

Despite the fact that the Yugoslav People's Army was the largest armed force in South East Europe (SEE)[109] and the armed pillar of the Yugoslav society, in early 1991 it was about to oversee the disintegration of the country it was supposed to defend. Worse still, the highest military ranks played prominent roles in this process. The Serbian government colluded with leading generals to misuse the armed forces, pushing them into a conflict that actually destroyed the very purpose of their existence. It is therefore unsurprising that the army finally turned its arms against the citizens it should have defended,[110] and embarked on a war that was doomed from the start.

Once the Yugoslav state disintegrated, the Yugoslav People's Army *de facto* became the Serbian military, and was split into three parts, namely the armed forces of Yugoslavia, Republika Srpska Krajina (Serbian military in Croatia) and Republika Srpska (Serbian military in Bosnia). This reorganisation was not accompanied by necessary reform. The leadership of the Serbian Armed Forces replaced the communist ideology with a nationalistic one and placed themselves under the informal command of Slobodan Milošević, who, through his generals, controlled the military.[111]

However, Milošević's reliance on the military was not total. Although he controlled the top military ranks, he could not be certain of the loyalty of the lower officer corps. He therefore decided to form an armed force whose allegiance to him would be unswerving, consequently militarising the police and secret services, both by the introduction of military ranks and equipment and by their training. Some units in the police and security services were soon better equipped and trained than those of the military.[112]

In 1997 Slobodan Milošević became president of the Federal Republic of Yugoslavia (FRY) and assumed formal command of the military. In 1999, NATO's

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[109] According to the International Institute for Strategic Studies, in the 1990-1991 period the Yugoslav People's Army numbered 180,000 men in total, 101,400 of whom were recruits. Its arsenal included 1,850 tanks; over 2,000 various artillery pieces; 4 frigates; 15 rocket, 14 torpedo and 30 patrol boats; 25 coastal batteries; 455 combat and training aircraft; 198 helicopters... For more information, see *The Military Balance 1990-1991* (London: IISS, 1991).

[110] For more on the war role of the JNA, see: Miroslav Hadžić, *Sudbina partijske vojske* [The Fate of the Party's Army] (Beograd: Samizdat B92, 2001).

[111] Ljubodrag Stojadinović, *Reforma vojske i ideologija* [Military reform and ideology](Beograd: Centar za civilno-vojne odnose, 2004).

[112] Filip Švarm, „Jedinica: neispričana priča o Crvenim beretkama," {Unit: Untold story of the Red Berets] *B92,* http://www.b92.net/specijal/jedinica (accessed on July 18, 2008).

three-month bombing campaign resulted in defeat for the regime, and although Milošević attempted to portray Serbia as the victor, it was clear that Serbian forces has been defeated and had to leave Kosovo, while NATO troops entered that territory, where they remain to this date.

On 5 October 2000 the military leadership defied orders and decided not to intervene or use force against the protesters. By refusing to prop up the already collapsed system, the generals hoped that the new authorities might let keep them their positions after the democratic change. This tactic was partially successful, notably in the case of the Chief of the General Staff Nebojša Pavković, who managed to remain in office for two more years.

The new democratic authorities were unprepared to handle the security sector, including the military as its largest component part. The new government failed to make the reform of this sector its priority, and even the statements of the new decision-makers offered no more than platitudes about the country's requirements for a smaller, better-equipped, modern and more efficient armed force. The government did not have a ready set of long and short-term measures for thorough reform.[113]

Constitutional Position

A key precondition for the reform of the military is a clear constitutional framework that defines the position of the military, and also provides a link to the political system that controls it.

The missions and tasks of the military are usually prescribed by a constitution, and subsequently elaborated and defined in greater detail by the laws on defence and the armed forces. The 1992 Constitution of the FRY stipulated that the Yugoslav Armed Forces defended the sovereignty, territory, independence and constitutional order.[114] After the creation of the State Union of Serbia and Montenegro this moderately clear wording of the Constitution[115] was replaced with a fairly broad and vague provision in the Constitutional Charter imparting that the armed forces of the State Union had the task to defend the country in accordance with the Charter and principles of international law regulating the use of force.[116] This formulation was transferred to the new 2006 Constitution

[113] Miroslav Hadžić, *The Fate of the Party's Army,* op. cit., pp. 211–214.

[114] *Ustav Savezne Republike Jugoslavije* [Constitution of the FRY], Art. 133, Službeni list SRJ, No. 1/92.

[115] Protection of the constitutional order is a phrase taken over from the Constitution of the SFRY, which has never been sufficiently precisely formulated and often enabled abuse of the military for political purposes.

[116] *Ustavna povelja Državne zajednice Srbija i Crna Gora* [Constitutional Charter of the State Union of Serbia and Montenegro], Art.. 55, Službeni list Srbije i Crne Gore, No. 1/2003).

of the Republic of Serbia.[117] However, a few months prior to the adoption of the Constitution the Ministry of Defence (MOD) endorsed a Strategic Defence Review, wherein the missions and tasks of the VS were precisely defined, substantially improving regulation. The VS missions are: (1) to defend Serbia from military challenges, risks and security threats by deterring armed threats, and defending its territory and air space; (2) to participate in peace-building and peace-keeping in the region and the world, by taking part in international military cooperation, peace operations and the collective defence system, and (3) to provide support to civilian authorities in their response to non-military security threats, specifically in fighting terrorism and organised crime and dealing with natural disasters, industrial and other catastrophes.[118]

The constitution is the most important of several legal provisions regulating the military. Other laws on defence and the armed forces were adopted in 1994 under Milošević and were valid until the end of 2007. In addition to the fact that these laws failed to meet the basic principles of democratic civilian control of the military and were long outdated, the Yugoslav Armed Forces had been functioning outside the legal frameworks since their formation of the 1992. Until quite recently, the political decision-makers sought to remedy the obvious failings of these legal solutions by adopting a series of ordinances, instead of new and modern laws. This is best illustrated by the introduction of civilian military service for conscientious objectors, approved by the 2003 Council of Ministers' ordinance, although this provision did not figure either in the Constitutional Charter or the laws on defence and the armed forces.

New laws on defence and the armed forces had been anticipated for a long time. The laws dating from the 1990s prevented further military reforms, as best illustrated by Serbia's accession to NATO's Partnership for Peace (PfP) programme. The existing legal regulations did not anticipate a possibility for security integrations, let alone accession to NATO programmes. The new laws, more appropriately described as amendments to the passed-down legislation, are nevertheless a closer fit to the current realities facing the military and, at least, present no obstacles for further reforms.

Democratic Civilian Control

Well-established democratic civilian control over the state apparatus of power, and thereby over the military, is one of the most important preconditions for the success of security sector reforms. In recent times, we have often seen situations where political elites sought to place the military under their control and

[117] *Ustav Republike Srbije* [Constitution of the Republic of Serbia], Art. 139, Službeni glasnik RS, No. 98/06.

[118] *Vojska Srbije* [Serbian Armed Forces], http://www.vojska.mod.gov.yu.

thus abuse it. In other cases, the military have interfered in everyday politics and tried to impose itself as the dominant power in the state. Prevention of any interference of this kind requires legal implementation of a democratic civilian control of the military.

Before the changes of 5 October 2000 democratic control of the military did not exist in any form. Control was indeed civilian, but directed by the regime. Democratic civilian control was introduced for the first time by the Constitutional Charter of the State Union of Serbia and Montenegro in 2003.[119] However, although the Charter stipulated that the Armed Forces of Serbia and Montenegro were subject to civilian control, it failed to specify the instruments or mechanisms for its implementation. At the same time, legislation passed during the Milošević era was still in effect, effectively meaning that democratic civilian control existed only in words and not in practice.

The same situation existed at the time of adoption of the new Serbian Constitution in 2006. The provisions for civilian control of the military that were incorporated in the Constitutional Charter were literally transplanted into the new constitution. More precise regulation only appeared with the new *Law on the Serbian Armed Forces* adopted in late 2007. The law stipulated that democratic civilian control is the responsibility of parliament, the ombudsperson, other relevant state bodies and citizens. This solution resulted from pressure placed on the law-makers by civil society, a sign that this type of control will increasingly feature as part of civil society's (if not the state's) agenda, especially given that tax payers have the right to know how their money is spent.

Within the context of democratic civilian control, the chains of both civilian and military command must be precisely defined. The FRY constitution, for instance, stated that the military was under the command of the state president, during peacetime as well as during times of war, in accordance with the decisions of the Supreme Defence Council.[120] The Constitutional Charter, on the other hand, vested the supreme military command in a collective body – the Supreme Defence Council.[121] A major problem however was the lack of accountability of the president and the Supreme Defence Council. The new Serbian constitution confers the exclusive command over the military to the President of the Republic.[122] This solution largely simplifies the chain of command, but still emits accountability of the president in terms of his military command role.

One outcome of military reform in Serbia and the institution of democratic civilian control is the subordination of the General Staff to the Ministry of Defence (MoD). Until 2004, when the decision was brought in by the Supreme Defence Council, the MoD had been completely excluded from the chain of

[119] *Constitutional Charter,* Art. 54.

[120] *Constitution of the FRY,* Art.135.

[121] *Constitutional Charter,* Art. 56.

[122] *Constitution of the Republic of Serbia,* Art. 112.

command and was solely concerned with administrative matters related to the military. The chief of the General Staff consequently was an important position since actual command over the military was in his hands.

Reform vs. Reorganisation

Discussion of reform in the military often details examples of reorganisational achievements, although this is only a part of the whole process. The most visible change is that the General Staff now includes the Joint Operations Command. The projected structure of the Serbian Armed Forces up to the year 2015 comprises 15 per cent officers, 25 per cent non-commissioned officers, 45 per cent soldiers and 15 per cent civilians. Furthermore, the military budget has been set at 2.4 per cent of GDP. The Serbian Armed Forces are to be organised at three levels: strategic, operational and tactical. The strategic level includes the General Staff and Joint Operations Command; the operational level for the organisation of the army, air force and anti-aircraft defence; and the tactical level for brigade commands.[123]

However, there are other, more important elements of the military reform that have not yet been fully applied. In addition to democratic civilian control, one of the declared objectives of reform is gradual professionalisation of the armed forces. The 2006 Strategic Defence Review refers to a downsizing of the armed forces to 21,000 professional members. At the same time, the number of troops will be gradually decreased, obsolete equipment and arms will be reduced or replaced, and the armed forces will be brought in line with NATO standards. The anticipated number of soldiers in peacetime will range from 0.2 to 0.4 per cent of the total population (and three-times this amount in times of war).[124]

The absence of a National Security Strategy (as well as a Defence Strategy) is perhaps the single most important failing of Serbian military reform. These documents would provide a framework and pave the way for security sector reforms in line with the country's foreign policy orientation. To date, we have seen only National Security Strategy drafts produced by advisors to president Boris Tadić and the former prime minister Vojislav Koštunica.[125] It is yet to be seen whether either of the two proposals will be adopted, or whether new drafts will be presented for public consulation.

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[123] *Strategijski pregled odbrane* [Strategic Defence Review], Ministarstvo odbrane Republike Srbije, Beograd, June 2006.

[124] *Strategic Defence Review*.

[125] "Nacrt strategije bezbednosti," [Security Strategy Draft] *B92*, http://www.b92.net/info/vesti/index.php?yyyy=2006&mm=10&dd=11&nav_id=215021&nav_category=11 (accessed on July 18, 2008).

REPRESENTATIVENESS

Representativeness of women

Gender equality has been incorporated into the Serbian Constitution. It prohibits discrimination on any grounds[127] and stipulates that all citizens may hold public offices[128] and have access to all jobs under equal conditions.[129] The Law on the Serbian Armed Forces also stresses that its provisions equally apply to both genders.[130] Regrettably, there are no systemic measures designed specifically to encourage gender equality in the Serbian armed forces and defence system.

Women account for 18.5 per cent of the total number of employees in the Serbian MoD and armed forces. Of this figure, 17.5 per cent are civilian employees. Only 0.6 per cent of women wear uniforms. Professional female military personnel number only 171: 15 officers, 29 NCOs and 127 professional soldiers.[131] The small number of women is due to the (recently repealed) provision in the *Law on the Yugoslav Armed Forces* which stipulated that professional soldiers must have completed military service.[132] This obstacle was removed in the *Law on the Serbian Armed Forces*.[133] Men and women now have equal conditions for admission to the professional military service, the same dress code and equal pay. Nevertheless, women are most often found in the administrative sector of the MoD and the armed forces, and very few occupy high grade positions. Thus, the administrative sector of the defence system employees 23.4 per cent women, and the operations sector 17.7 per cent. Of that number, 22.17 per cent are executors and only 3.09 per cent executives.[134]

[126] Data necessary for the evaluation of the pace and achievements of the Serbian Armed Forces reform have been obtained from the Serbian MoD, with the help of Vidak Anđelić.

[127] *Constitution of the Republic of Serbia*, Art. 21.

[128] *Constitution of the Republic of Serbia*, Art. 53.

[129] *Constitution of the Republic of Serbia*, Art . 60.

[130] *Law on Serbian Armed Forces,* Art. 11.

[131] *Dopis Ministarstva odbrane Republike Srbije,* Sektor za ljudske resurse, Uprava za kadrove [Letter of the Serbian MoD Human Resources Sector, Cadre Dept.], int. no. 5734-1, 28. 05. 2008.

[132] *Zakon o Vojsci Jugoslavije* [Law on the Yugoslav Armed Forces], Art. 21, Službeni list SRJ, Nos. 43/94, 28/96, 44/99, 74/99, 3/2002 i 37/2002 - dr. zakon i Službeni list SCG, No. 7/2005.

[133] *Law on the Serbian Armed Forces,* Art.39.

[134] Letter of the Serbian MoD Human Resources Sector, int. no. 5734-1, 28. 05. 2008.

In 2006 the MoD and OSCE mission in Serbia organised an international conference 'Women in the Army'. A year later, for the first time in the history of military schools, the MoD invited women to apply for admission into the Military Academy. During the academic year 2007/2008, the Military Academy admitted 30 women as regular students.[135] Although such efforts represent some progress, gender equality in the defence system has not yet reached a satisfactory level.

Grade: 2.5 (two and a half)

Representativeness of ethnic minorities

The Serbian constitution guarantees equality of all citizens, regardless of their ethnicity. This means that the criteria for admission and advancement in the service apply equally to all members of the Serbian Armed Forces, regardless of their ethnic origin. However, there are no other norms or facilities that would additionally encourage and affirm proportional representation of ethnic minority members in the military and defence system. The fact that 91.21 per cent of all Serbian Armed Forces members are declared as Serbs supports this statement and points to the need to adopt special systemic measures aimed at achieving proportional representation of ethnic minority members in the defence system in foreseeable future.[136]

Grade: 2 (two)

TRANSPERENCY

General transparency

The MoD's obligation to provide free access to information is regulated by the Law on Free Access to Information of Public Importance. The defence minister has specifically designated staff members within the MoD's Department of Legal Affairs to respond to requests for free access to information of public inter-

[135] "Školovanje devojaka," [Education of Girls] *Vojna Akademija*, http://www.va.mod.gov.yu/cms/view.php?id=1831 (accessed on July 24, 2008).

[136] Letter of the Serbian MoD Human Resources Sector, int. no. 5734-1, 28. 05. 2008.

est.[137] Moreover, the Ministry has also drawn up an Information Bulletin which is available on its website.[138] Various data are classified, kept and archived according to regulations governing office work in the armed forces. The procedure for acquisition of information of public importance has been regulated by the above law.[139]

Within the Ministry of Defence data is classified according to its importance for the country's defence.[140] For this purpose the relevant rules defined for the Yugoslav Armed Forces[141] also apply. These bylaws have become fairly obsolete. That is why a new piece of legislation is required to regulate the matter of classification, as well as declassification of data which is equally applicable to all state bodies.

Finally, when members of the public make an inquiry, relevant staff within the MoD are obliged to inform them about their respective rights and obligations, as well as the means of exercising these rights and obligations. This information should include sphere of its activity, the state body supervising its work and possibilities to contact this body. Furthermore, the MoD must notify members of the public about other data essential for the transparency of its work and relations with external parties.[142]

The Annual Report presented by the Commissioner for Information of Public Importance in 2007 includes a review of requests for data of public importance submitted to the MoD. Of a total of 23 requests, 16 were admitted in part

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[137] "Postupak po Zahtevima za slobodan pristup informacijama od javnog značaja," [Procedure for the Processing of Requests for Free Access to Information of Public Importance] *Ministarstvo Odbrane Republike Srbije*, http://www.mod.gov.yu/cir/aktuelno/informator/8.php (accessed on Sep. 4, 2008).

[138] „Informator o radu Ministarstva odbrane," [MoD Information Bulletin] *Ministarstvo odbrane Republike Srbije*, http://www.mod.gov.yu/cir/aktuelno/informator/inf_index.php (accessed on July 25, 2008).

[139] *Zakon o slobodnom pristupu informacijama od javnog značaja* [Law on Free Access to Information of Public Importance], Art. 15, Službeni glasnik RS, No. 120/04.

[140] *Uredba o kriterijumima za utvrđivanje podataka značajnih za odbranu zemlje koji se moraju čuvati kao državna ili službena tajna i o utvrđivanju zadataka i poslova od posebnog značaja za odbranu zemlje koje treba štititi primenom posebnih mera bezbednosti* [Ordinance Defining the Criteria for Identification of Data of Importance for the Country's Defence That Must Be Kept as State or Official Secret and Identification of Tasks and Activities That are Particularly Significant for Defence and Need to Be Protected by Special Security Measures]. Službeni list SRJ, No. 54/94.

[141] *Pravilnik o kriterijumima za utvrđivanje podataka o Vojsci Jugoslavije koji predstavljaju vojnu tajnu, stepen vojne tajne i mere za njihovu zaštitu* [Rules on the Criteria for Identification of Data on the Yugoslav Armed Forces Considered as Military Secret, the Degree of Their Confidentiality and Measures for Their Protection], Službeni vojni list, No. 22/01.

[142] *Zakon o državnoj upravi* [Law on State Administration], Art. 79, Službeni glasnik RS, No. 79/05, 101/07.

or in full, two were dismissed, and five denied.[143]

Grade: 3 (three)

Financial Transparency

The 2008 budget allocates 65,069,033,000 RSD for defence. This equals 10.2 per cent of the total budget, or 2.4 per cent of projected GDP. The budget also anticipates the MoD's own income of 944,028,000 RSD as well as receipts from the sale of military property amounting to 833,904,000 RSD.[144] However, the budget gives imprecise information on where the money is spent, preventing proper insight into the Ministry's allocation of funds. Although there exists a need for a certain level of secrecy in defence spending, data on certain allocations should be presented with greater transparency.

One positive development has been the repaying of debts inherited by the MoD. The clearing of this debt certainly improves the Ministry's financial situation especially considering that debt interest payments in 2007 amounted to 500 million RSD.[145] However, there is no publicly available information on where the funds for debt repayment have come from.

Although financial operations are legally regulated, proper control does not exist. Procedures for public acquisitions are regulated at several levels. The procurement of movables and services is regulated within the MoD's Procurement Department.[146]

Procurement procedures for resources in the Serbian Armed Forces are prescribed by the *Law on public procurement*.[147] Procurement competences in the MoD are not defined according to value, but rather to the types of assets and services, and are vested in the relevant organisational units.[148] Public procure-

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[143] MoD Information Bulletin, http://www.mod.gov.yu/cir/aktuelno/informator/inf_index.php (accessed on Jul 25, 2008).

[144] *Zakon o budžetu Republike Srbije za 2008. godinu* [Law on the Budget of the Republic of Serbia for 2008], Službeni glasnik RS, No. 123/07.

[145] „Prvih sto dana Minstarstva odbrane," [MoD's first 100 days] *Dragan Šutanovc's interview to the RTS*, http://www.rts.rs/page/stories/ci/story/1/Србија/22941/Првих+100+дана+Министарства+одбране.html (accessed on Nov. 4, 2008).

[146] *Odluka o ovlašćenjima za raspolaganje novčanim sredstvima, nabavku pokretnih stvari i usluga i raspolaganje pokretnim stvarima u MO i VSCG* [Decision on the Competences for the Disposal of Monetary Funds, Procurement of Movables and Services and the Disposal of Movables in the MoD and the Armed Forces of Serbia and Montenegro]. Službeni vojni list, br. 21/05.

[147] *Zakon o javnim nabavkama Republike Srbije* [Public Procurement Law of the RS], Službeni glasnik RS, br. 39/02, 43/03, 55/04, 101/05.

[148] *Decision on the Competences for the Disposal of Monetary Funds, Procurement of Movables and Services and the Disposal of Movables in the MoD and the Armed Forces of Serbia and Montenegro.*

ments of small value are a special case in this respect,[149] and may be regulated by internal acts of the procuring agency.[150] The MoD regulates this procedure by special rules.[151]

The *Law on public procurement* does not apply to armaments and other confidential acquisitions (as defined by special regulations).[152] Acquisitions of armaments and military equipment follow a procedure regulated by the Ordinance on Special Purpose Movables. Procurement of these assets is subject to the defence minister's decision and the relevant procedures are carried out by a commission comprising at least five members, formed by the head of the MoD Procurement Department. Confidential procurements are arranged in direct negotiations.[153] The regrettable absence of any control over confidential procurements has given rise to several corruption scandals in military circles.[154]

The negotiation procedure for the provision of services required by the Serbian Armed Forces is the same as that for material resources and is regulated by the *Law on public procurement*. Exceptions are confidential services which are subject to the *Rules on planning and material-financial operations in the MoD and the Yugoslav Armed Forces*, i.e. public tendering.[155]

The main problem related to public procurements in the MoD is the absence of regular and precise public reporting on expenditure. Furthermore, reports on the control and oversight and control of the MoD's financial operations by competent state bodies are not publicly available. That should primarily be the task for the State Audit Institution authorised to oversee the use of all budgetary funds by the Serbian constitution.[156] Unfortunately, after nearly three years of existence, the institution is still not in a position to provide systematic control and oversight of budgetary expenditures of all state bodies, including the MoD.

Grade: 2,5 (two and a half)

[149] Public procurements of small value are those estimated at 270,000 and 2,700,000 dinars, *Law on the RS Budget for 2008,* Art. 19.

[150] *Public Procurement Law of the RS,* Art. 124.

[151] *Pravilnik o javnim nabavkama male vrednosti* [Rules on Public Procurements of Small Value], Službeni vojni list, No. 29/07.

[152] *Public Procurement Law of the RS,* Art. 2

[153] *Uredba o pokretnim stvarima za posebne namene* [Ordinance on Special Purpose Movables], Službeni list SCG, No. 28/05.

[154] Such were e.g. *Mile Dragić* and *Satelie* scandals, whose actors are on trial for abuse of office and conclusion of contracts damaging for the military budget.

[155] *Pravilnik o planiranju i materijalnom i finansijskom poslovanju u Saveznom ministarstvu za odbranu i Vojsci Jugoslavije,* Službeni vojni list, No. 18/97, 22/98, 17/01, 22/02.

[156] *Constitution of the Republic of Serbia*, Art. 92.

PARTICIPATION OF CITIZENS AND CIVIL SOCIETY ORGANISATIONS

Participation in policy-making (strategic and legal framework)

The *Law on state administration* prescribes that all state bodies, are obliged to use the media to inform the public about their work.[157] Furthermore, the MoD is required to organise a public debate when drafting a law that substantially alters the Serbian defence and military legal regime, or regulates matters of special interest to the public.[158] As such, the MoD posted drafts of the *Law on defence* and *the Law on the Serbian Armed Forces* on its website. However, since the drafts became available in August, at the height of the holiday season, it left only two months for public debate. Nevertheless, the draft legislation gained a lot of public interest as a novelty and, hopefully, represents a positive precedent for other state bodies within the security sector. The draft of the *Law on defence* on the MoD's website registered 75,000 hits.[159]

Public consulation in security and defence policy-making in Serbia is considered unimportant. This can be illustrated by the MoD's decision to organise a two-week public debate on the National Security Strategy and Defence Strategy of the Republic of Serbia between 14 - 30 December 2008 (although it must also be noted that the MoD agreed to the request of a group of civil society organisations to prolong the debate until 31 January 2009). Although the organisation of public debates on draft strategies and legislative proposals represents a positive precedent in the state security sector, it is obvious that there is not enough time to react, which makes the exercise largely pointless.

Grade: 3 (three)

Participation in policy implementation and evaluation (rating)

In March 2008 the defence minister endorsed the *Guidelines for the Communication Strategy of the MoD and the Serbian Armed Forces*, drafted by the Ministry's Public Relations Department. This document offers a vision for military reforms

[157] *The Law on State Administration* Art. 76.

[158] *The Law on State Administration* Art. 77.

[159] "Obaveze Ministarstva odbrane iz delokruga javnog informisanja," [MoD public information obligations] *Ministarstvo odbrane Republike Srbije*, http://www.mod.gov.yu/cir/aktuelno/informator/10.php (accessed on July 25, 2008).

until the year 2015 and guidelines for the Ministry's external and internal communications. The document is aimed at improving public understanding and generating support for the implementation of reforms. The Ministry's strategy defines the media, citizens, professional public and the young and local communities as its main external target groups. With this document, the MoD has stressed its intention to establish a transparent and proactive communication with the public. The strategy is binding on all employees of the defence system and is formalised in annual communications action plans.[160]

The Ministry has paid particular attention to its relations with civil society organisations, academics and independent experts. This cooperation was particularly intensive in the period preceding the adoption of the new defence and military legislation in the autumn of 2007. A number of suggestions made during the public debate were subsequently incorporated in the final versions of the laws.[161]

Cooperation related to the draft of the Defence Strategy in the spring of 2007 was somewhat less successful. A draft version developed by the Ministry was sent to professional academic institutions and civil society organisations. Subsequently, comments and suggestions to the proposed text were given at a round table meeting. However, after this meeting further cooperation with civil society experts was discontinued.

The MoD does not have a special public information section. As part of efforts to improve co-operation with citizens and in line with the armed forces' mission to support civilian authorities in their response to non-military security threats,[162] the General Staff has formed its Civil-Military Co-operation Unit (J-9).[163] In view of the specific security situation in south Serbia, the emphasis has been placed on the promotion of civil-military co-operation in the Ground Security Zone by the opening of an Office for Civil Military Co-operation in Vranje.

Grade: 3 (three)

[160] *Smernice za strategiju komunikacije Ministarstva odbrane i Vojske Srbije,* Ministarstvo odbrane Republike Srbije, Beograd, 2008.

[161] For more, see: Popović Đorđe, 'Komentar nacrta Zakona o Odbrani i Vojsci Srbije', [Comments on drafts of defence and Serbian armed forces laws] *Bezbednost Zapadnog Balkana*, br. 7–8 (oktobar 2007–mart 2008): 120-131.

[162] *Strategijski pregled odbrane* [Strategic Defence Review], Ministarstvo odbrane Republike Srbije, Beograd, June 2006.

[163] See the MoD oranisational scheme, http://www.mod.gov.yu/cir/organizacija/index_cir.php (accessed on July 26, 2008).

ACCOUNTABILITY – DEMOCRATIC CIVILIAN CONTROL AND PUBLIC CONTROL AND OVERSIGHT

Control by the Executive

The initial formal conditions for the control of the executive over the Serbian Armed Forces have been fulfilled. However, the degree of actual implementation could not be established in the course of this research. The Serbian president and government, (in the form of the MoD) represent the executive bodies vested with the control over the Serbian military. In addition to having command of the military during war and peace time,[164] the president appoints the chief of the General Staff, in consultation with the defence minister (although this consultation is not obligatory).[165] In this way the president exercises control over the highest operational command and administrative body of the Armed Forces. However, the *Law on the Serbian Armed Forces* does not contain any provisions specifying to whom (and when) the president is accountable in his command of the military. Furthermore, the president is not obliged to confer with the defence minister or the parliamentary committee for defence when appointing or replacing the military chief of staff. The removal of General Zdravko Ponoš from the position of chief of staff illustrates presidential control over the armed forces. President Tadić replaced general Ponoš after making public the details of his conflict with the defence minister.[166] On that occasion he stated a series of accusations against minister Šutanovac, claiming that Serbia did not have a defence policy, that the military reform had reached a standstill and that the budgetary funds were being used for other purposes.[167]

The *Law on the Serbian Armed Forces* allows the president, the defence minister and the chief of the General Staff to grant extraordinary promotions to professional military staff, which is one of the ways for the executive control over the military.[168] Unfortunately, the law fails to define the procedures and criteria for such extraordinary promotions.

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[164] *Law on Serbian Armed Forces,* Art. 17.

[165] *Law on Serbian Armed Forces,* Art.

[166] "Predsednik Srbije razrešio Zdravka Ponoša sa mesta načelnika Generalštaba," [Serbian president relievesn Z.P. as Chief of General Staff] *Saopštenje sa veb-strane predsednika Republike Srbije*, http://www.predsednik.yu/mwc/default.asp?c=301500&g=20081230124247&lng=cir&hs1=0 (accessed on Jan. 23, 2009).

[167] "Politika odbrane zemlje ne postoji," [Country's defence policy non-existent] *general Zdravka Ponoš's interview to the daily „Politika", 24. 12. 2008,* http://www.politika.rs/rubrike/Politika/Politika-odbrane-zemlje-ne-postoji.lt.html (accessed on Dec. 31, 2008).

[168] *Law on Serbian Armed Forces,* Art. 61.

The government controls the military through the development and implementation of defence policy, and also by proposing and enforcing laws and other defence-related decisions.[169] The government also appoints the defence minister, as well as the assistants and state secretaries who implement presidential, governmental and parliamentary acts. Furthermore, the government, acting on the advice of the defence minister, evaluates the work of military staff, and makes decisions on promotion and establishes incentives for professional advancement.[170] The absence of a clearly defined procedure and criteria, however, once again provides the possibility for arbitrary evaluation.

The MoD exercises additional control over the defence system through the Defence Inspectorate. This body carries out inspection work related to the enforcement of all defence-related laws, regulations and plans produced by state and military bodies.[171] The *Law on defence* obliges the Defence Inspectorate to regularly inform the president and the defence minister on its findings.[172] However, it is not known whether this actually occurs and to what extent. Furthermore, the public does not have an insight into reports of this kind, or for that matter, into the work of the Defence Inspectorate.

Grade: 3.5 (three and a half)

Parliamentary Control and Control and oversight

Parliamentary control and control and oversight of the Serbian Armed Forces is carried out by the Defence and Security Committee. The committee oversees the constitutionality and legality of the defence system, its compliance with the basic strategic documents and the use of budgetary resources. Parliament also decides on the allocation of funds for defence and oversees the work of the military intelligence services.[173] However, the Committee rarely exercises its authorities. During 2007, the work of the Defence and Security Committee was reduced to the review of new defence and military laws.[174] Reports on the work of the committee reveal that there was no debate on the functioning of the defence system, nor on the use of budgetary funds. During the past three years, the committee has not scrutinised a single military armament procurement de-

[169] *Zakon o odbrani* [Defence Law], Art. 12, Službeni glasnik RS, No.. 116/07.

[170] *Law on the Serbian Armed Forces,* Art. 65.

[171] *Defence Law,* Art. 16.

[172] *Defence Law,* Art.. 18.

[173] *Defence Law,* Art.. 9.

[174] *Izveštaj o radu odbora Narodne skupštine u 2007. godine* [Report on the work of National Assembly Committees in 2007], Narodna skupština Republike Srbije, Beograd, februar 2008.

cision.[175] During this same period no commission or committee of inquiry was formed and not one MP asked a defence-related question.[176] Committee members have made no field visits to a defence system institution.[177] This lack of scrutiny strongly suggests that parliamentary control and control and oversight of the defence system has not been fully implemented.

A specific problem is the lack of professional staff on the Defence and Security Committee. The Committee has only one employee, assisted by two staff members (only one of which has extensive experience) from the Parliamentary Department for Defence and National Affairs.[178]

In order to promote cooperation with parliament, in April 2006, the MoD set up a Parliamentary Liaison Group within the Defence Policy Sector.[179] Although commendable, there is still no evidence to suggest whether this measure has intensified cooperation between the two institutions.

Grade: 2 (two)

Judicial Control

There are two elements to judicial control of the Serbian Armed Forces. On one hand the Constitutional Court judges the constitutionality and legality of work of the defence bodies, and on the other hand, there are courts of general jurisdiction. The 2003 the Constitutional Charter of the State Union of Serbia and Montenegro anticipated the transfer of military courts' jurisdiction to member republics. This was not done until the adoption of the *Law on the Transfer of Jurisdiction of Military Courts, Military Prosecution and Attorneys* in 2004. For military cases the law prescribes the jurisdiction of special military chambers formed in relevant district courts.[180]

As with parliamentary control, formal conditions for judicial control of the armed forces are in place. However, in reality the courts are inefficient and overburdened with cases. A particular problem exists in cases where military employees have brought proceedings against the MoD in order to affirm their rights and obligations. Such disputes were previously transferred from the mili-

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[175] *Dopis Narodne Skupštine Republike Srbije* [Letter of the Serbian National Assembly], 30. 7. 2008.

[176] Letter of the Serbian National Assembly.

[177] Letter of the Serbian National Assembly.

[178] Letter of the Serbian National Assembly.

[179] *Dopis Ministarstva odbrane Republike Srbije,* Sektora za politiku odbrane Uprave za strategijsko planiranje [Letter of the Serbian MoD Defence Policy Sector, Strategic Planning Dept.].

[180] *Zakon o preuzimanju nadležnosti vojnih sudova, vojnog tužilaštva i vojnog pravobranilaštva,* čl. 3 i 4, Službeni glasnik RS, br. 137/04.

tary courts to the Supreme Military Court and the Court of the State Union, and following the disintegration of the State Union, to the Administrative Department of the Supreme Court of Serbia. During 2007, this Department had the total of 26,069 cases, of which only 9,657 (or 41,61 per cent) were solved.[181] These figures show that the backlog of cases facing the court is a major problem, especially since it affects efficiency and also the position of numerous individuals in the defence system.

Grade: 2 (two)

Public control and oversight

Public control and oversight of the armed forces is carried out by various independent institutions, such as Auditors Ombudsperson, civil society organisations, the media, acadeMoI, and the general public. The *Law on the Serbian Armed Forces* confers this control and oversight of the military to Ombudsperson and the public.[182] Despite substantial progress in improving public control and oversight of the Serbian military, the current situation is not entirely satisfactory.

Independent institutions involved in control and oversight are primarily concerned with the enforcement of laws, as well as implementation of strategic documents regulating the defence system. These institutions also participate in defence and security policy-making and monitor the defence system. Unfortunately, very few independent institutions and civil society organisations have the capacities for public control and oversight of the defence system.

Grade: 3 (three)

RULE OF FAW

Legal State

The 2006 Constitution of the Republic of Serbia does not regulate the security sector as a whole, but only one of its elements – the Serbian Armed Forces. However, the section of the constitution dealing with the military contains three ar-

[181] *Izveštaj o radu Vrhovnog suda Srbije sa prikazom rada sudova opšte nadležnosti za 2007. godinu* [Report on the work of the Supreme Court of Serbia including a review of courts of general jurisdiction in 2007], Vrhovni sud Srbije, 2007.

[182] *The Law on Serbian Armed Forces,* Art. 29.

ticles which: define the competences of the SAF; prescribe that they cannot be used outside the territory of Serbia without parliamentary approval, and; place the military under democratic civilian control.[183] The Constitution does not mention the existence of a single security system. Attempts to regulate this system were made by the adoption of the *Law on the basic organisation of security and intelligence system of the Republic of Serbia*.[184] Although this Law defines intelligence services as part of a single security-intelligence system, its composition and role are still not clear. Those who wrote the constitution should explain why it only speficies the Armed Forces, rather than all elements of the security sector, and why it only envisages civilian control over the military.

The constitution, furthermore, does not anticipate a National Security Strategy. This strategy is instead included in the *Law on Defence*.[185] The *Law on the Serbian Armed Forces* has also failed to account for the existence of this strategic document. This shows a clear discord between the most important defence system laws and the constitution. Moreover, there is a discrepancy between the *Law on defence* and the *Law on the Serbian Armed Forces*, since the former describes presidential command of the armed forces,[186] while the latter more precisely specifies command over the armed forces in war and peacetime.[187] In order to avoid ambiguity it would be desirable to have the same specificity in both pieces of legislation.

Until the adoption of the new defence and armed forces laws in 2007, bylaws were apparently the main instruments used to regulate the defence system. Political decision-makers seemed more inclined to pass ordinances than to adopt new and modern legislation. The most conspicuous example is the *Ordinance on military duty* which introduced civilian military service and conscientious objection, contrary to the existing legislation.[188] The discord between the laws and bylaws was removed by the *Law on defence* which prescribes that all regulations implementing the old 1994 law that do not contravene the new law remain in force, pending the adoption of new implementing regulations.[189]

It is clear that the legal regulation of the defence system is not complete. As a result the defence system and the Serbian Armed Forces together function as a separate entity. Moreover, the discord between the legal acts regulat-

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[183] *Constitution of the Republic of Serbia*, Art. 139, 140, 141.

[184] *Zakon o osnovama uređenja službi bezbednosti Republike Srbije* [Law on the Basic Organisation of Security and Intelligence System of the Republic of Serbia], Art. l. 1, Službeni glasnik RS, Nor. 116/07.

[185] *Defence Law,* Art., 7.

[186] *Defence Law,* Art.. 11.

[187] *Law on the Serbian Armed Forces,* Art.17.

[188] *Uredba o vršenju vojne obaveze* [Ordinance on Military Duty], Art. 26, Službeni list SRJ, No. 36/94, 7/98 and Službeni list SCG, No. 37/03, 4/05.

[189] *Defence Law,* Art.. 118.

ing defence matters, although substantially reduced, has not been completely eliminated.

Grade: 3 (three)

Protection of Human Rights

There is no special constitutional and legal protection of the human rights of Serbian Armed Forces members. The constitution prescribes that every person is entitled to protection if his/her human rights have been violated or denied, including the right to remedy any resulting consequences.[190]

Data on the violation of legal norms, including those related to human rights, are kept by the Military Disciplinary Court. Any such violations are reported to the president of the republic and the defence minister on annual basis. Unfortunately, these reports are not available to the public, and it is not possible to any assessment of the extent of violations of legal norms in the defence system. Moreover, we cannot establish the degree of observance of human rights of this system's members or citizens who, for whatever reason, come in contact with the MoD.

Grade 3: (three)

EFFICIENCY

Human Resources

The present organisational structure of the MoD was, to a large extent, already in place by May 2005.[191] Even at the time of its establishment, this structure had a number of deficiencies, particularly a surfeit of organisational units, and an excessive number of employees in the Ministry and its subordinated structures. In addition, the organisation of military health services, logistics and education is ill-matched to the needs of the system and poorly adjusted to the economic resources available in the country. As a result there are plans to wean a number of military institutions from the defence budget. Finally, the defence sector does not make sufficient use of information technology.[192]

A new and more functional organisational structure was established in the

[190] *Constitution of the Republic of Serbia*, Art. 22.

[191] *Letter of the Serbian MoD Defence Policy Sector, Strategic Planning Dept.*

[192] *Strategic Defence Review.*

Ministry in 2007. The number of employees was reduced and the number of military and civilian employees balanced. In addition, the functions of civilian defence have been integrated as were also military, work and material obligations.[193] However, the process of demilitarisation in the Ministry was stopped, which explains why most of the administrative and senior positions below the level of the state secretary and assistant minister are presently occupied by high-ranking officers. This was highlighted by a statement made by the former chief of General Staff General Zdravko Ponoš, who claimed that the General Staff has 192 colonels, compared with 476 in the Ministry, and 28 and 15 generals respectively.[194]

During the past few years, the professional staff in the Serbian Armed Forces has been reduced. At present, the forces number 28,000.[195] The number of professional members of the armed forces is to be reduced to 21,000 by 2010.[196] This reduction was calculated on the basis of precisely defined criteria at each level (rank). The cadre has been divided into the promising, semi-promising (those who may reach the promising level with additional education) and unpromising (those who will be let go).[197] Data on the structure of qualifications of MoD personnel reveals that 47.07 per cent of uniformed and 18.42 per cent civilian employees have higher education.[198] Of all staff, 13.77 per cent have administrative jobs and 86.23 per cent operative jobs.[199]

In early 2006, the Military Academy signed an agreement with the University of Belgrade to award Academy graduates in 2010 with diplomas from Belgrade University. The Military Academy has developed a programme of English language teaching containing all the principle of the NATO STANAG. In addition, it has started an ECDL programme for computer skills development, whose graduates receive European IT-certifications of different levels.[200] There is no doubt that all these measures have been introduced to make the officers calling more attractive to the young in Serbia and to increase their interest for enrolment in the Military Academy. However, there is no way of telling whether the Ministry and the Military Academy have properly reckoned with the fact that the above-

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193 *Letter of the Serbian MoD Defence Policy Sector, Strategic Planning Dept.*.

194 "Country's Defence Policy Non-Existent", op. cit.

195 Jeftić Zoran, „Razvoj organizacije Ministarstva odbrane i reforma Vojske Srbije," [Development of MoD Organisation and Serbian Military Reform] in *Reforma sektora bezbednosti u Srbiji, dostignuća i perspektive*, ed. Miroslav Hadžić. (Beograd: Centar za Civilno-vojne Odnose, 2007), 23-28.

196 *Strategic Defence Review*.

197 Jeftić, op.cit.

198 *Letter of the Serbian MoD,* Defence Policy Sector, Human Resources Sector, Cadre Dept., 28.05. 2008.

199 *Letter of the Serbian MoD.*

200 Jeftić, op. cit. pp. 23-28.

mentioned measures, especially the Belgrade University diploma, may result in a sudden and uncontrolled outflow of young Serbian officers.

Grade: 3 (three)

Material Resources

The military health services system is also undergoing a reform. The idea was to preserve part of the military health services and at the same time incorporate them into the civilian healthcare system.[201] In line with this idea, the Military Medical Academy has already opened its doors to civilians.

One of the major problems facing the MoD is the issue of military pensions. There are close to 50,000 military pensioners compared with just under 17,000 active officers and NCOs. In view of these numbers, it is not surprising that personnel expenses account for about 80 per cent of the military budget.[202] The remaining 20 per cent are insufficient to meet the other needs of the defence system. This problem will be resolved by transferring military pensions to the republic budget, or rather by integrating civilian and military pension funds.

Military efficiency is very difficult to evaluate in peace-time conditions. There is no doubt that a lot has been done to improve high military education and downsize the forces. However, large problems caused by the lack of finance are still outstanding. The armament and equipment of the Serbian Armed Forces are fairly obsolete and are not efficient for the fulfilment of duties and tasks.

Grade: 2,5 (two and a half)

EFFECTIVENESS

Integratedness of the defence system

Despite the fact that the defence system has been established, Serbia does not have a single and complete security system. The *Law on defence* lacks a provision defining the defence system as part of a wider system of national security. There is also an absence of unified system of organising the preparations for defence, or for implementing measures related to the work of citizens, state bodies and economic entities, and other legal persons, enabling the use of Serbian armed

[201] Jeftić, op. cit., pp. 23-28.

[202] Jeftić, op. cit., pp. 23-28.

and other defence forces in times of war and emergencies.[203] Moreover, in the absence of a long-term development plan for the defence system, it cannot be claimed that an organised approach to the management of this system exists.

An important deficiency is that the Serbian constitution does not anticipate the existence of a security system for the Republic of Serbia. The *Law on the basic organisation of a security and intelligence system* provided for the establishment of the National Security Council in 2007. The Council's competences are mostly limited to co-operation and co-ordination between elements of the security sector. The defence minister, chief of the General Staff and directors of military intelligence services, among others, participate in the work of the Council.[204] The Council should gather representatives of most important parts of the security sector and co-ordinate their work. However, stress in the Council's operations has been placed on intelligence services revealing that the lawmakers have not given due attention to the establishment of a comprehensive security system.

Moreover, after public conflict between the defence minister and the chief of General Staff in December 2008, it became clear that the status and relations between the MoD and the General Staff need to be systemically and normatively regulated. Judging by public statements by parties in this conflict, it is clear that substantial conceptual differences exist in the work of these two bodies that should, each in its own sphere, exercise the management and command of the military. This also suggests the existence of different interpretations and practices with respect to the principles and degree of subordination as well as mutual competences.

Grade: 2.5 (two and a half)

Ratio between aims, resources and outcomes

Strategic objectives of the defence system reform prescribed by the MoD include the following: (1) the building of an efficient and economically sustainable defence system; (2) the building of a modern, professional and efficient military and (3) the establishment of democratic civilian control over the armed and other defence forces.[205]

The Strategic Defence Review stipulates the factors with the largest influence on the attainment of the prescribed objectives: (1) security challenges, risks and threats: (2) processes in the Republic of Serbia and resolution of the status of Kosovo: (3) incorporation in Euro-Atlantic security integrations: (4) eco-

[203] *Defence Law,* Art. 4.

[204] *Law on the basic organisation of security and intelligence system of the Republic of Serbia*.

[205] Letter of the Serbian MoD Defence Policy Sector, Strategic Planning Dept.

nomic and demographic possibilities of the Republic of Serbia: (5) existing level of doctrinal, normative and organisational development of the Serbian defence system and armed forces; and (6) foreign experience and international standards.[206]

The success of military reform is assessed by observing three spheres: strategic-doctrinal, legal-normative and organisational-functional.[207] It is clear that the greatest progress has so far been attained in the third, organisational-functional sphere. The projected military organisation has been achieved and the legal normative objectives have, to a large extent, been fulfilled with the adoption of the new defence and armed forces laws. The reform in the first, strategic-doctrinal sphere has remained incomplete. Serbia still does not have the basic documents such as the National Security Strategy, Defence Strategy, Long-Term Development Plan of the Defence System, Strategic Defence Review and the Serbian Armed Forces Doctrine. Only when these documents are adopted will we be able to speak of the professionalisation and modernisation of the Serbian Armed Forces and the solution of social problems, or the establishment of a new system of values.

Of the proclaimed aims of the Serbian Armed Forces, those of an organisational-functional nature have been attained along with many of the legal-normative kind. However, the strategic-doctrinal objectives have not been attained at all. The absence of a political consensus at the highest decision-making level concerning the directions of the reforms has, to a great extent, affected the ability to fulfil the proclaimed aims. The realisation of objectives in particular is influenced by the lack of financial assets.

Grade: 2.5 (two and a half)

Legitimacy

Public opinion on changes in the Serbian Armed Forces are divided. Serbian society has always tended to have a high level of trust in the military. However, public opinion surveys carried out by the Centre for Civil-Military Relations in 2003-2005, reveal a downward trend in this trust.[208] In particular, there was a sudden drop in 2004 following the murder of two members of the guards' brigade at the Karaš secret military facility.[209] Trust in the military was based on

[206] *Strategic Defence Review*.

[207] *Strategic Defence Review.*

[208] Miroslav Hadžić, 'Poverenje građana Srbije u vojsku' {Serbian citizens' trust in the army] in *Javnost i vojska*, eds. Miroslav Hadžić i Milorad Timotić. (Beograd: Centar za civilno-vojne odnose, 2006), 84.

[209] Hadžić, ibid., p. 99.

its role as the main guarantor of security and peace, as protector of national interests and because of the perception that the military represented a sort of 'school of life'. On the other hand, the main reasons for distrust are due to poorly trained and equipped employees, resistance to reform and the continued existence of officers supportive of the former regime with its ranks.[210]

According to the research of the Centre for Free Elections and Democracy carried out in June 2007, 43 per cent of Serbian citizens responded that they had trust in the Serbian Armed Forces.[211] A year later, in September 2008, this had increased to 48 per cent.[212] These research findings suggest that the Serbian Armed Forces have a relatively high popularity and enjoy the trust of almost half the population.

Grade: 3 (three)

[210] Hadžić, ibid., pp. 100–101.

[211] *Istraživanje javnog mnjenja Srbije, rano leto 2007. godine* [Serbian public opinion survey, 2007] (Beograd: Centar za slobodne izbore i demokratiju, 2007)

[212] Resurs 2008 (Beograd: Centar za slobodne izbore i demokratiju, 2008)

Police

Sonja Stojanović

The police in Serbia has come a long way since 2001 and new democratic foundations have been laid upon which the police can fulfil their duty to serve the country's citizens. There have been four crucial changes. First, there is greater co-operation with the international community. Second, has been the 'return of brainpower instead of force.' In other words there is more capacity within the criminal investigation police compared to the Milošević period. Third, police identity has been re-defined from that of an instrument of coercion to one which serves the public. Finally, there is a legal and strategic framework for regulating police work. However, the key question remains whether these reforms are enough to ensure that the police no longer hinder broader processes of democratisation. Judged by the above changes, it can be said that the 'first generation' of reforms (according to the model developed by the British political scientist Tim Edmunds) has been successfully completed. Such reforms include the establishment of the mechanisms for civilian control and the adoption of a basic legal framework. The Serbian police have entered the second phase – the consolidation of reforms - whereby formal reforms are internalised by the system. The second generation of reforms aims at "consolidation of the previous reforms and the effective and efficient operation of the institutions and procedures at the sustainable cost for the state and the society" (Edmunds 2003: 16). To achieve this goal, it is necessary to reduce structural factors that allow for the polarisation of policing, while simultaneously increasing efficiency through the improvement of human resources and financial management in line with mainstream reforms in the rest of the public administration. It is also crucial to adopt, as soon as possible, a mid-term MoI Development Strategy which would clarify priorities of reform for the next three to five years. In addition, it is necessary to demonstrate the commitment to further democratisation of policing by implementing internal control and oversight, introducing community policing and internationalising a democratic police culture in the new police education and training systems. Finally, it is important that the Serbian police service continues to open up, both internally through more intense co-operation with other state authorities and civil society organisations, and internationally by intensifying its work towards EU integration.

REPRESENTATIVENESS

Representativeness of women

2001[1]	2006	2008
Out of 35,000 employees in the MoI (21,000 uniformed)	Out of 33,284 employees with the status of uniformed authorised police personnel and authorised police personnel	The MoI did not respond to this question
29 women	2,683 women have the status of uniformed authorised police personnel and authorised police personnel. Of this number 124 are part of the command staff	2,909 women have the status of uniformed authorised police personnel and authorised police personnel. Of this number 78 are managers within the operational police force

Table 14: Representativeness of women in the operational police force

Since 2000 considerable progress has been made in the representation of women in the operational section of police service. This is one of the most visible reform processes that has increased public trust in the police. This reform was initiated upon the recommendations of international organisations, primarily the OSCE and the Council of Europe (CoE).[213] The government has also demonstrated its support for the implemention of reform, with a visible change in how the public view the police; no longer as a threat to their own safety. This

[213] Richard Monk, *Study on policing in the Federal Republic of Yugoslavia* (Belgrade: OSCE Mission in FRY, 2001) and John Slater, *Report on the assessment of the human rights, ethics and policing standards in the Republics of Serbia and Montenegro* (Strasbourg: Council of Europe – Committee of Experts on Police Ethics and Problems of Policing, 2001)

is further underscored by public perception surveys which indicate that the increase in women in the police is supported by 68.8 per cent of the population. One of the goals of the Ministry of Interior's police training and education reform was a target of 30 per cent female police officers.[214] This indicator is in line with the recommendations of the *Beijing Declaration and Platform for Action A/CONF.177/20* (1995) *and A/CONF.177/20/Add.1* (1995).[215]

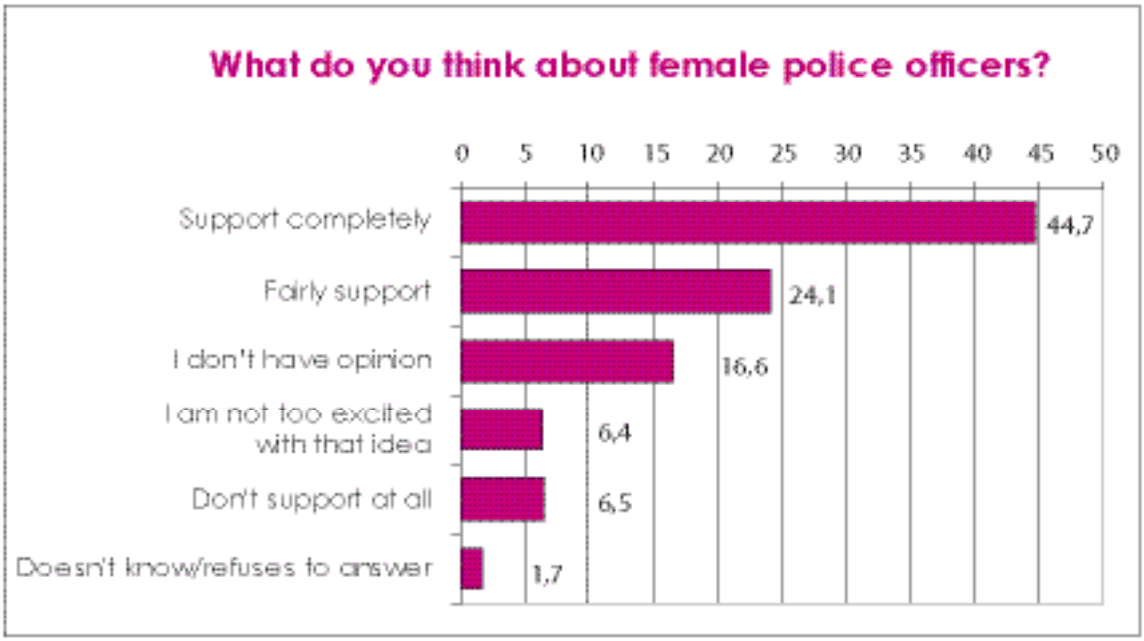

Chart 3: Public perception survey on female police officers[216]

The first step towards the 30 per cent target was to recruit women for basic police training, i.e. the Police Officers' Course. During 2002 and 2003 three courses were organised exclusively for women. These courses lasted for four

[214] Marina Blagojević, 'Iskustva policije Srbije u osposobljavanju žena za poslove u oblasti bezbednosti' in *Žene u vojsci – zbornik radova sa međunarodne konferencije*. (Beograd: Ministarstvo odbrane RS i Misija OEBS u Srbiji, 2007). 155 i Snežana Novović and Dijana Petrović, *Žene u policiji* (Beograd: MUP, VŠUP, 2006), 39.

[215] Fourth World Conference on Women, Beijing Declaration and Platform for Action A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995).

[216] *Public perception of the police in Serbia* (Partner Marketing Research Agency, 2002), 80. Survey on how the public perceived the police was conducted for the OSCE Mission in the Federal Republic of Yugoslavia in co-operation with the Working Group of the Ministry of Interior of the Republic of Serbia between 29 November and 12 December 2002.

months) compared to the six-month courses attended by male recruits).[217] The female police officers' courses were conducted in line with the existing curriculum, but without the field training.[218] The exception was the border police course, where men and women attended the same programme.[219] A 2004 OSCE Report, which analysed the achievements of the police since 2000, indicated that separate training organised for men and women was one of the flaws of the system.[220] The main objection was that men and women officers should be doing the same police work, and therefore the curricula should not differ. This recommendation was adopted in 2004 and since then the basic police training courses have been organised jointly for men and women.

The next positive step occurred in 2002 when the 10 per cent quota for enrolment of women to the Police College was abolished. All women who passed the entrance exams qualified for enrolment under the same conditions as male applicants. The enrolment criteria were the same for both genders, apart from those that referred to the check of the basic motoric status, which was based on different predispositions of women and men. In the same year, nine years after it was established in 1993, the Police Academy allowed women to enrol for the first time, although the maximum proportion of women was set at 20 per cent.

Generation	Total number of enrolled students	Number of enrolled women
Since establishment in 1993 till 2002	1,170	0
2002/2003	125	34 (27%)
2003/2004	130	30 (23%)
2004/2005	125	35 (28%)
2005/2006	130	28 (27%)
Total until 2006	1680	127 (13,22%)

Table 15: Number of women enrolled at the Police Academy before its transformation into the Academy of Criminalistic and Police Studies

[217] *Proposed response to the CCMR enquiry – indicators for the Security Sector Reform Index in Serbia, MoI,* General Police Directorate, Directorate for Analytics, November 2008, p.2

[218] Marina Blagojević, 'Iskustva policije Srbije u osposobljavanju žena za poslove u oblasti bezbednosti' in *Žene u vojsci – zbornik radova sa međunarodne konferencije.* (Beograd: Ministarstvo odbrane RS i Misija OEBS u Srbiji, 2007). 156

[219] Novović, Petrović, "Žene u policiji", 41

[220] Mark Downes, *Police reform in Serbia – towards the creation of a modern and accountable police service* (Belgrade: OSCE Mission to Serbia and Montenegro, Law Enforcement Department, 2004), p. 33.

The greatest progress in institutionalising the recruitment of women into the police service was made when the new model of basic police training was adopted in the *Strategy of development of police training and education system*[221] in December 2005. The strategy stated that instead of a six-month course, all future employees of the Ministry of Interior would have to go through a standardised 18-month training (12 months in the Basic Police Training Centre – BPTC - in Sremska Kamenica and another six months of field training). The new model of basic police training envisaged that female participants could be women aged 19 to 25. During the promotion of the new training, significant efforts were made to encourage the recruitment of women and to have as many female applicants as possible. The results of these efforts were clear; out of 3850 candidates who applied in 2007 for the first class of trainees in the BPTC, 1015 were women (26 per cent). Out of 129 selected trainees in the first class, 32 were women (24.8 per cent). In the second class, which enrolled in 2008, there were 30 women (25 per cent) out of 120 trainees.

Apart from efforts to increase the representation of women in the police, which should be commended, we also need to draw attention to certain weaknesses. There is still a quota for number of women into the basic police training (up to 30 female trainees) as well as in undergraduate studies at the Academy of Criminalistic and Police Studies (funded from the state budget).[222] The Academy was established in 2006 following a merger of the Police College and the Police Academy into a single institution of higher education offering three-year vocational and four-year academic studies. Out of 70 students, 15 places are allocated for women (21 per cent), and in vocational studies this number is 15 out of 50 (30 per cent).[223] These limitations do not apply to undergraduate studies if tuition fees are paid by the students themselves, nor do they apply to graduate and masters courses. Since the establishment of the Academy of Criminalistic and Police Studies in 2006 until the beginning of the academic year 2008/2009, the total number of budget and self-funded students was 300, of which 30 were women (10 per cent).[224] The Ministry of Interior approved these enrolment quotas. These figures indicate that not all levels of police education are equally accessible to male and female candidates, which would be in line with the principle of equal opportunities. By limiting the number of female candidates, women are indirectly limited in employment and promotion opportunities in police jobs. Considering a high level of interest among women for a police career, and the

[221] Available at: http://prezentacije.mup.sr.gov.yu/upravazaobrazovanje/strategija/Strategija%20razvoja%20sistema%20obuke%20i%20obrazovanja_221205-.htm

[222] *Proposed response to the CCMR enquiry – indicators for the Security Sector Reform Index in Serbia, MoI,* General Police Directorate, Directorate for Analytics, November 2008, p. 1–2

[223] *Proposed response to the CCMR enquiry – indicators for the Security Sector Reform Index in Serbia, MoI,* General Police Directorate, Directorate for Analytics, November 2008, p. 1

[224] Danijela Spasić, "Žene u sistemu policijskog obrazovanja stanje i perspektiva ženskih ljudskih prava", *Temida* (Septembre 2008): 51.

fact that the number of women who pass the entrance exam is higher than the number admitted, we recommend that the limits on women should be abolished and that they should be allowed to compete with their male colleagues for the budget-funded places based on their achievements. In order to remedy the unequal representation of women in the police,[225] the active promotion of recruitment of women should continue, including a minimum quota of women in all forms of training and education.

A second limitation is the fact that working conditions and promotion criteria are not adjusted to the full integration of women into the police service and are not in line with international standards. Despite efforts since 5 October 2000 to increase the representation of women in the operational police force, most women employed in the MoI are outside of the operational police work. In autumn 2008 the MoI employed 8,913 women. Out of this number 2909 women were authorised uniformed police personnel and authorised police personnel (the operational police service), which represents 32.6 per cent of the total number of female employees in the MoI. The remaining two-thirds are mostly engaged in administrative and education jobs. There are 298 women in management positions, 78 of which are in the operational police service.[226] Despite requests for information, the MoI did not submit data on the number of employees nor on its staff structure, so the precise current percentage of women in the MoI is unknown, neither in relation to the total number of employees nor in relation to the entire operational and management staff. Assuming that the number of employees has not changed substantially since the last available public data[227] from 2005 and that there are approximately 44,000 staff members in the MoI, only 4.94 per cent are women. If we assume that the number of occupied positions in the operational force of the MoI has not changed since 2005 (33,284), we can conclude that 2909 women make up 11.44 per cent of the operational staff of the MoI. If the total number of employees in the MoI and the number of occupied positions with the status of authorised uniformed police personnel and authorised police personnel did in fact change, then the representation of women in the total number of staff and operational staff is even lower.

[225] According to the 2002 Census, there are 3,852,071 women in Serbia (51.3 per cent) and 3,645,930 men (48.7 per cent).

[226] *Proposed response of the MoI*, p. 1

[227] *Report on the activities of the MoI of the Republic of Serbia during the period between November 2004 and April 2005*, p. 28

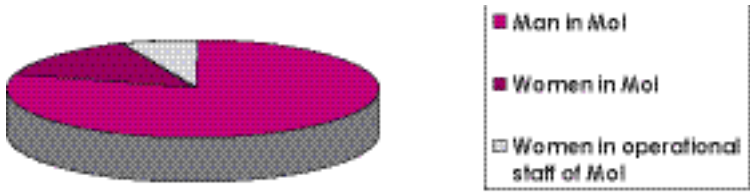

Chart 4: Representativeness of women in the MoI

Women are almost invisible in management positions, especially in the operational force of the MoI. According to data from August 2005, cited by Novović and Petrović,[228] there were only 164 female managers within the ministry. At the end of 2008 there were 298 women in management positions of which 78 were in the operational force.[229] This point to the fact that there are significantly more female managers in administrative jobs than in the operational police force. Given the very short period of time in which the number of uniformed female officers has increased, the small number of women in the command staff is not entirely surprising. It is, however, discouraging that of all the women who graduated from the former Police College and gained employment with the MoI, significantly more are working in non-police jobs compared to their male colleagues who graduated from the same college.[230]

Status	Classified number of positions	Occupied number of positions	Number of women relative to occupied positions	Percentage of women relative to occupied positions	Number of managers	Number of female managers
Police officer	41,000	27,997	1847	6.60 %		
Authorised police personnel	7401	5287	836	15.81 %		
Total	48,401	33,284	2683	8.06 %	1378	176

Table 16: Women in the MoI as of March 2006[231]

This situation can be blamed on inadequate management of human re-

[228] Novović, Petrović, "Žene u policiji", 43.

[229] *Proposed response of the MoI*, 1.

[230] Novović, Petrović, "Žene u policiji", 93.

[231] Adapted based on the table from Novović, Petrović, 43.

sources. Apart from measures to increase the number of female recruits, active measures for keeping women in police jobs should be established, including measures that would encourage their promotion based on merit. It is necessary to examine whether the current system of salaries, incentives and pension insurance favours male over female officers in certain positions. If this is the case, it is necessary to revise the job descriptions and skills needed to perform these jobs and to value competences such as problem solving, ability to work with local communities and co-operation with other state bodies just as equally as police work with the use of force. This would ensure that, when promotions decisions are made, positions which are more frequently occupied by female police officers (e.g. juvenile delinquency, sex crime, work with children, domestic and gender-based violence) are not informally valued as less important than other police jobs. To achieve this, it is necessary to have a transparent system of human resources management that values competences and initiative. This is currently not the case in the MoI. The section on human resources management system deals with this in detail.

Average grade: 3 (three)

Representativeness of ethnic minorities

Insufficient representativeness of ethnic minorities in the police is one of the main consequences of the post-conflict context of security sector reform. Due to police actions during the armed conflicts in the former Yugoslavia during the 1990s, and also due to discriminatory and oppressive actions towards so-called 'disloyal minorities' (mostly Albanians and Bosniaks[232]), the police lost legitimacy in minority communities. As a result large numbers of people from ethnic minorities left the police. Their positions were often filled by the Serbian police officers, themselves refugees from Bosnia and Herzegovina and from Kosovo.[233] These officers were often traumatised and unprepared for policing in multi-ethnic communities. Restoring the trust in unbiased policing is a precondition for attracting individuals from ethnic minorities to the police. In order to overcome the lack of trust in police, it is necessary to process all cases of police torture against members of ethnic minorities.[234] This is particularly important for regional police districts in Sandzak and the three municipalities in south Ser-

[232] According to the Sandzak Committee for Human Rights, between 1991 and 1995 the police questioned 15,000 people in this region.

[233] Draft of *Final report on the first phase of the project police and minorities and socially vulnerable groups* (British Council and OSCE Mission in Serbia), 11.

[234] For more information on the cases of violation of human rights for ethnic minorities members, see reports of the Humanitarian Law Centre and Sandzak Committee for Human Rights.

bia where instances of systematic torture of ethnic minorities took place during the 1990s.

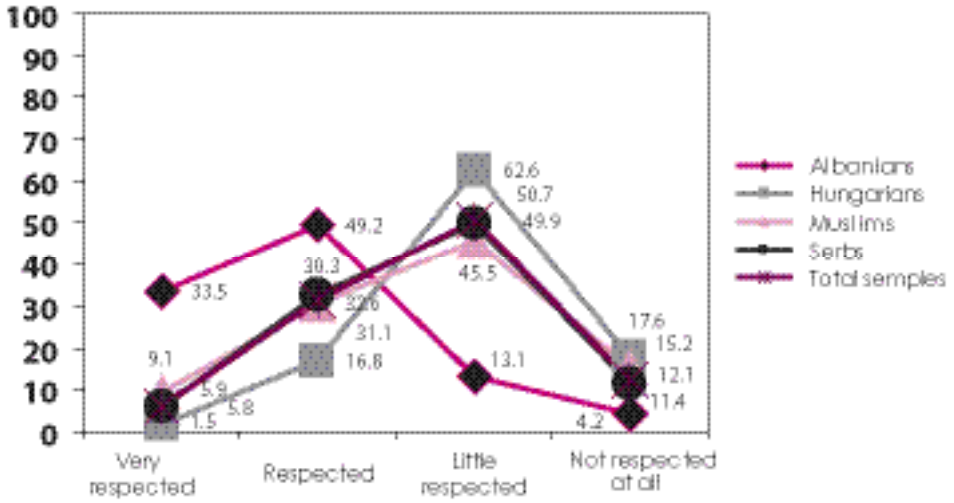

Chart 5: Opinions on the police of high school pupils of different ethnicities[235]

One turning point that could lead to a new policy towards ethnic minorities is a peace agreement that ended the armed conflict with the Preševo, Medveđa and Bujanovac Liberation Army (PMBLA), which lasted from the end of 2000 until mid-2001. The establishment of the Multi-Ethnic Police Element (MEPE) was part of a peace agreement named after Nebojša Čović (deputy prime minister in the Serbian government at the time). In line with the Čović agreement, intensive training and background checks were initiated for former members of the PMBLA (as well as others from these three municipalities) who were interested in joining the police. With the assistance of OSCE instructors, intensive three-month police courses[236] were held in Mitrovo Polje. Within a short period of time there was a significant increase in the number of Albanian police officers. This led to increased trust in local police. A UNDP survey found that the police was named the most representative state authority, after a decade of being seen exclusively as an oppressive authority. Nevertheless, after initial successes local representatives of the Albanian minority complained of inadequate engagement and poor promotion of members of the Multi-Ethnic Police Element. Instead of daily policing work in police stations, they were placed in modular buildings in remote and scarcely populated places. When it became clear that

[235] We obtained the results of this survey, conducted at the sample of 1686 senior pupils of four-year secondary schools, during the interview with Biljana Puškar, Director of the Basic Police Training Centre in Sremska Kamenica, on 1 August 2008. The survey was conducted in secondary schools in Belgrade, Niš, Novi Sad, Vranje, Subotica, Šabac, Užice, Sremska Mitrovica, Vršac, Kanjiža, Bački Petrovac, Bačka Topola, Preševo, Bujanovac, Novi Pazar, Zaječar and Kragujevac.

[236] MEPE training lasted only half the time of the regular six-month police courses.

the initial intensive training would not be enough, the Ministry conducted additional training between 2002 and 2006. This was done at the request of the Working Group for south Serbia, which comprised representatives from local authorities, the local police, the Ministry and the OSCE.[237] These reforms led to the representation of ethnic minorities to largely reflect the structure of the population.

Municipality	Population (in %)			Police (in %)		
	Serbs	Albanians	Others	Serbs	Albanians	Others
Bujanovac	34,14	54,69	11,17	58	40	2
Medveđa	66,57	26,17	7,26	85,7	12,1	2
Preševo	8,55	89,10	2,35	50	50	-

Table 17: Representativeness of ethnic minorities in police service in three municipalities in south Serbia[238]

In areas with large ethnic minority populations (apart from the three municipalities in south Serbia) ethnic minorities are not adequately represented in the majority of regional police districts. The situation is similar for the representation of women. Based on the last available data on ethnic structure of the MoI from 2004, ethnic minorities are almost invisible in command positions in the operational police force.[239] The MoI states that the main problem is a lack of interest among ethnic minorities for police work. This is illustrated by the results of a survey of secondary school pupils interest in police careers.[240] The survey found that 63.4 per cent of secondary school pupils of Albanian ethnicity, 54.5 per cent of Bosniaks and 53.4 per cent of Hungarians were not interested in working in the police.

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[237] Thorsten Stodiek, *The OSCE and the creation of multi-ethnic police forces in the Balkans* (Hamburg: Institute for Peace Research and Security Policy at the University of Hamburg, 2006), 43.

[238] South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons 2004b, *Public Perception of Small Arms and Security in South Serbia*, Belgrade. str. 11

[239] The MoI did not respond to our question on number of employees who are members of ethnic minorities.

[240] Survey at the sample of 1,686 secondary school pupils.

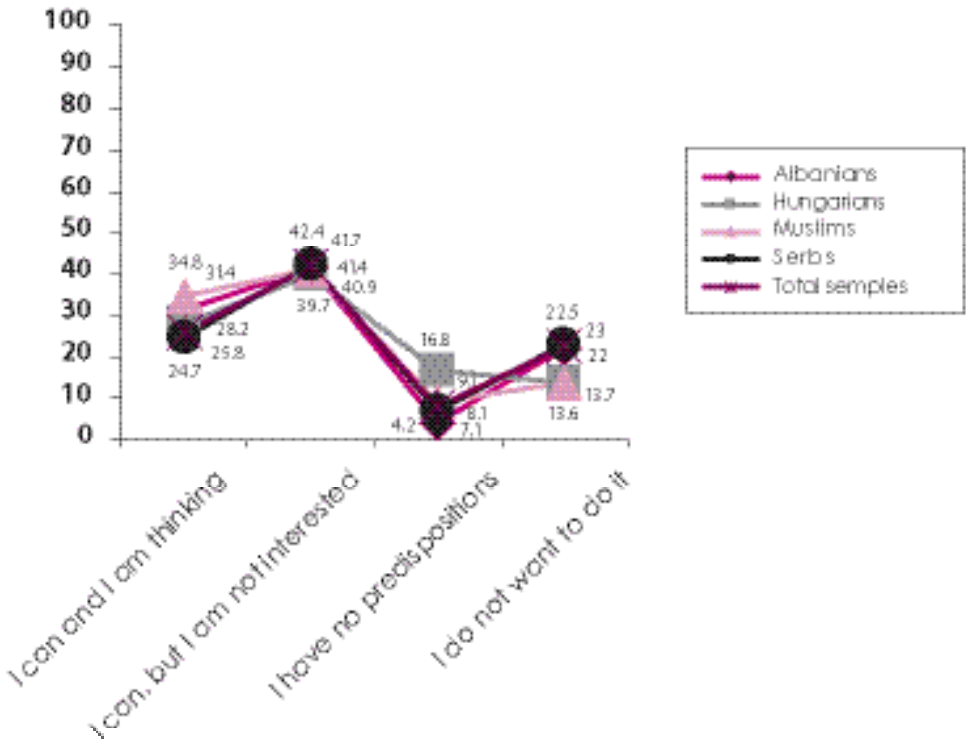

Chart 6: Interest of secondary school pupils in police careers

In spring 2006 the Ministry of Interior, together with the OSCE Mission and the British Council, held eleven round tables with minority, socially vulnerable and marginalised groups.[241] These discussions helped to identify obstacles to cooperation between the police and ethnic minority communities. Hungarian participants cited low salaries and the low social standing of police officers, whereas Albanian and Bosniak participants pointed to cases of discrimination at training facilities located far away from where they live. Another problem is inadequate knowledge of the Serbian language. This was also highlighted in 2007 during an enrolment campaign for basic police training, when many applicants of ethnic minority origin had difficulties in taking the psychological tests in the Serbian language. As a result the tests were later translated with the assistance of the OSCE Mission. Specific Serbian language classes were also organised for Roma applicants. During the promotion campaign, cooperation with Ethnic Minority Councils was established for the first time in order to encourage members of ethnic minorities to apply. Promotional brochures, posters and radio adverts were produced in minority languages. Such practices should be continued. In addition, the Ministry should explore the possibility of promot-

[241] Draft of *Final report on the first phase of the project police and minorities and socially vulnerable groups* (British Council and OSCE Mission in Serbia).

ing police officers who speak the language of the minority living in the given area, when deciding between two candidates of the same ranking. This measure would both encourage police officers of Serbian ethnicity to learn minority languages and encourage members of ethnic minorities to apply for police jobs.

Despite these efforts, some ethnic communities such as Roma and Croatians, are still invisible in the police,. Roma in particular are one of the least represented minorities in society. It is particularly important that the entire state administration becomes involved in integrating the Roma population. Specific measures need to be developed in cooperation with the social security and education system to increase the number of Roma who graduate from secondary schools, including measures which would encourage them to apply for police jobs.

2001	**2006**[2] Out of total 45,149 employees of the MoI	**2008** Data not available
118 Albanians	296 Albanians (0.66% of police staff compared to 0.82% in the general population)	Data not available
496 Hungarians	487 Hungarians (1.08% of police staff compared to 3.91% in the general population)	Data not available
380 Bosniaks	453 Bosniacs (1% of police staff compared to 2.1% in the general population)	Data not available
	40 Roma (0.09% of police staff compared to 1.44% in the general population)	Data not available

Table 18: Representation of some ethnic minorities in the MoI

The Ministry of Interior should set as one of its long-term reform goals a structure in the police service that reflects the general population, both at the local level, particularly in ethnically diverse communities, and at the national level. Particular attention should be given to the promotion of ethnic minority representation in the operational police force and in management positions. In this vein, novelties in the work with the media and with the local communities should be introduced. This primarily refers to institutional cooperation with Ethnic Minority Councils, local self-government and civil society organisations. Such cooperation should contribute to the promotion of the police in ethnically diverse communities, starting from primary school age. Budgetary resources should be allocated for the publishing of police application calls in minority languages and in ethnic minority-language media. Managers from ethnic minorities in the MoI

should also be involved in campaigns. To promote ethnic minority employment in the MoI, there needs to be access to education without fear of discrimination from peers or colleagues at the Academy of Criminalistics and Police Studies, as well as during professional development courses conducted away from where they live. Supervisors should be responsible for creating safe and neutral learning and work environments. They should ensure that all staff members are treated equally based on merit and that all forms of discrimination are dealt with.

Average grade: 3 (three)

TRANSPARENCY

General transparency

During the observed period, the Ministry of Interior made considerable but insufficient progress in increasing its public transparency. Important changes were introduced by the 2004 *Law on free access to information of public importance*. The MoI started to publish a regular Information Booklet and disseminate information of public importance. However, the public still consider that the MoI is insufficiently transparent. This has also been highlighted in reports by the Commissioner for Information of Public Importance. The MoI stands out from the other authorities at the national level in the number of rejected requests for access to information, and also for not acting upon 14 enforceable decisions of the Commissioner.[242] The main obstacles in achieving an appropriate level of transparency are legal factors, a lack of resources and the legacy of its organisational culture.

Year	Number of requests	Positively resolved	Percentage	Rejected	Percentage
2006	401	337	84.03 %	40	9.97%
2007	558	433	77.59 %	96	16.7 %
Total	959	770	80.29%	136	14.18%

Table 19: Responses by the MoI to requests for free access to information in 2006 and 2007[243]

[242] Commissioner for Information of Public Importance, *Report on implementation of the Law on free access to information of public importance in 2008* (Belgrade, March 2009), 11.

[243] Based on the response submitted in: *Proposed response to the CCMR enquiry – indicators for the security sector reform index in Serbia, MoI,* General Police Directorate, Directorate for Analytics, November 2008, p. 8.

The legal framework is the first obstacle to greater transparency. For instance, the *Law on police* qualifies free access to information of public interest by specifying 'justified interest' (Article 5). This contravenes standards of free access to information of public importance set forth in the *Recommendation of the Committee of Ministers of the Council of Europe* no.2002, Art. 5. Similar laws in consolidated democracies do not require citizens to prove their interest before they can receive information. Further, there is no legislation on confidentiality or classification of data. This increases the probability that requests for information will be rejected. Information requests can therefore be denied because of confidentiality, even when it is unclear which criteria were applied to classify the information as such. This is particularly important since data confidentiality is one of the most common reasons stated by the MoI when rejecting access to information, according to Commissioner reports. The Commissioner further states that this explanation was used for information referring to illegal or criminal activities (for instance, the 'Road Mafia' case).[244] For this reason the provision of 'justified interest' in the *Law on police* should be replaced by provisions that refer to the *Law on free access to information of public importance*. It is also necessary to enact the *Law on classification of data*, which would regulate the concepts of state, military and official secrets in line with modern European standards.

The *Law on free access to information of public importance* specifies three types of obligations for public authorities (state bodies). First, they must publish an Information Booklet (article 39). Second, they are required to organise staff training on information requests (article 42). Third, they must submit a report to the Commissioner (article 43). In the past the MoI has fulfilled these obligations to varying degrees. The Information Booklet of the Ministry of Interior is available on its website, but it is not regularly updated and it contains only a small portion of information prescribed by the *Instruction for development of the Information Booklet of public authority bodies.*[245] The Information Booklet provides names and telephone numbers of MoI officials responsible for free access to information.[246] It also outlines information on the organisation of the MoI (at the headquarters and in territorial organisation), including the competences of Ministry bodies. The document does not contain information on the types of services provided by the MoI, procedures of exercising rights, nor information

[244] *Proposed response to CCMR questions,* 20.

[245] *Instruction for Development of Information Booklet of Public Authority Bodies*, the Official Gazette of the Republic of Serbia, no.57/05, 5 July 2005

[246] Apart from names, there are no mailing or e-mail addresses, even though it is expected that the request should be submitted in writing.

on the enforcement of the most relevant laws.[247] Similarly, there is no information on budgetary allocations, as prescribed by the *Instruction for development of information booklet* as mandatory.[248] The Information Booklet should be amended to include information on public contact points within the MoI, so that, for instance, civil society organisations, local governments or companies interested in cooperation know who they can contact.

The MoI was specifically criticised in reports on the implementation of the *Law on free access to information of public importance* in 2006 and 2008 because of the Information Booklet's limited contents and irregular updating of information.[249] After Transparency Serbia analysed 80 Information Booklets by public authorities at the national and provincial level, it gave the lowest assessment to the quality of information published by the MoI.[250] Regular updating of the contents of the Information Booklet requires systematic monitoring of the MoI's work. This would allow managers to identify weaknesses and enable the public and the media to have immediate interaction with the Ministry. That is why the *Instruction for development of information booklets* requires public authorities to update the contents of booklets at least once a month,[251] something that the MoI is not doing. The MoI also fails to fulfil its obligation, as required by article 196 of the *Law on police*, to publish at least twice a year a list of laws enforced by the police, including explanations of the most important changes in legislation. A list of laws and by-laws, which exists as a separate page on the MoI's website, contains the legislation which is no longer in effect,[252] but there are no explanations about the most important legislative changes.

Another obstacle is a lack of capacity. Staff dealing with public enquiries often do so alongside regular daily work. There is also not enough training and insufficient IT and analytical capacities to support the efficient provision of information. After initial criticism of inefficient handling of information requests, since 2006 the MoI has been constantly increasing the number of responsible

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[247] At the website of the Ministry of Interior there is the *Frequently Asked Questions* page (http://www.mup.sr.gov.yu/domino/mup.nsf/pitanja), which provides mostly technical advice, such as how to obtain your personal documents. At the web pages of the Uniformed Police Directorate and of the Sector for Rescue and Protection, which are much more difficult to find due to chaotic organisation of the MoI website, there is advice referring to the citizens' rights and obligations of police officers.

[248] Ibid.

[249] *Report on implementation of the Law on free access to information of public importance in 2006,* 31 and *Report on implementation of the Law on free access to information of public importance in 2008,* 30

[250] The MoI was given 1.78 on a 1 – 5 scale, as stated in the *Report on implementation of the Law on free access to information of public importance in 2008,* 30

[251] Ibid.

[252] For example, the list includes the Code of Ethics from 2003, even though the new one was enacted in 2006.

staff. There are currently 106 staff members in charge of these tasks in the MoI.[253] They perform these duties alongside their regular daily work. Because of heavy workloads they are sometimes unable to respond to requests within the time-frame prescribed by the law. Article 42 of the *Law on free access to information of public importance* requires training for all MoI staff members in the previsions of this law.[254] The most recent training was held in June 2006 for MoI employees responsible for sharing information of public importance. Consequently, the MoI's Directorate for Police Education, Training, Professional Development and Science should include the contents of the *Law on free access to information of public importance* in its annual Professional Development Programme, and should also develop a specific training programme for relevant staff members. Finally, in order to ensure efficient provision of information, responsibility should be delegated to regional police districts so that they can respond to certain requests without prior verification from MoI headquarters. In order to have a functioning system, it is necessary to improve the analytical capacities outside MoI headquarters and to introduce e-government which would enable faster access and exchange of documents over the internet.

The lack of political will and resistance within the MoI to publishing information on its plans, goals and results represent further obstacles to transparency. Since mid-2005 the MoI's Activity Report is no longer available on its website. This report is submitted at least once a year to the Parliamentary Security and Defence Committee. Furthermore, the MoI did not respond to several questions submitted in writing by the authors of this paper. No further explanation was provided. The most important question concerns the number of employees in the MoI, including classified positions. It is also necessary to publish standards on public information so that it is clear which information is accessible. In democratic countries all information referring to the goals and methods of police work is available as long as it does not compromise police investigations, does not jeopardise the presumption of innocence and does not affect public security. In order to ensure timely and efficient informing of the public, it is necessary to improve cooperation between the police and the media. Public education on important security issues should also be raised. For this reason the 'Instruction for cooperation with the media' should be improved, spokespersons should be appointed and trained in all regional police districts and media relations training should be mandatory in police management courses.

Average grade: 2 (two)

[253] Proposed response to CCMR questions, 7.

[254] This training was one recommendation in the GRECO Report on Serbia (Council of Europe's Group of States Against Corruption) from 9 October 2006

Financial transparency

It is clear that during the last eight years the MoI has been unprepared to publish information on its financial, human and other resources, despite obligations outlined in the *Instruction for development of the information booklet of public authority bodies.*[255] Publication of this information is particularly important considering that the Ministry of Interior has one of largest budgets of any government department. It receives approximately seven per cent of the budget (two per cent of GDP).[256] It is particularly important to publish (either within the Information Booklet or in separate reports) information on additional funding sources through the provision of MoI services (article 182 of the *Law on police*),[257] including information on extra-budgetary resources used to improve the work of the police, obtained through aid or donations from non-governmental or other legal entities (article 18 of the *Law on police*). This information should be updated at least once a year on the webpage of the MoI, so that all the interested members of the public can monitor any conflict of interest in the Ministry of Interior's work.

The MoI's budget in 2007 equals two per cent of projected GDP

The 2007 budget earmarked RSD 41,454,312,000 for the MoI. This equals seven per cent of the total budget, or two per cent of projected GDP. The budget also envisages revenue generated by the ministry itself of RSD 4,067,785,000.[258] The MoI receives RSD 7,500,000 from non-governmental organisations and individuals, as well as the unallocated surplus of revenue from previous years of RSD 22,437,922.

The economic budget classification should be replaced by a functional classification as soon as possible, in order to present clearly the appropriation of budgetary resources. Whereas the economic classification only lists various types of expenditures in very broad terms (e.g. staff costs, travel expenditures and materials), the functional budget classification specifies the purpose of expenditures (e.g. maintenance of public peace and order, and criminal investigations). The current budget methodology is not precise enough and it does not allow for proper insight into the way the Ministry allocates financial resources. Although part of the budget must remain confidential because of specificities

[255] The Official Gazette of the Republic of Serbia 57/05, 5 July 2005

[256] *Proposed response to CCMR questions,* 10

[257] *Rulebook on types of service which the MoI can provide to obtain additional means*, the Official Gazette of the Republic of Serbia, no. 64/2006, 71/2007 and 14/2008

[258] *Law on the budget of the Republic of Serbia for 2007,* the Official Gazette of the Republic of Serbia, no.123/07.

of the system, the rest of the budget should be presented in a transparent way. The public is unfamiliar with the allocation of budget resources since the MoI has never published a report. Such a report should be presented according to form number five (regulated by the *Law on budgetary system*) and submitted to the Treasury. In addition, the government's final account statement from 2002 was never published. When the author of this paper asked about the use of grants to civil society organisations (budget classification 481), the MoI responded that it had no resources allocated to classification 481,[259] although the 2007 budget specifies RSD 3,500,000 for this purpose. However, responding to questions posed by the Centre for the development of the non-profit sector,[260] the MoI admitted that in 2007 this amount was allocated to CSOs but that there was no use of this money.

This problem is more apparent when it comes to public procurement, since the MoI is one of the largest state bodies. The MoI is also partially exempt from the public procurement system *Directive on funds for special purposes,*[261] in line with the *Law on public procurement*. The Minister of Interior decides on the funds for 'special purposes' which are confidential (weapons, ammunition, means for counter explosive protection, equipment used for encryption, detectors, etc.). Nevertheless, big corruption scandals, such as the case of low-quality uniforms in 2008, which cost the police tens of millions of dinars,[262] show there is the need for additional verification and implementation of the *Law on public procurement*.

A Supreme Audit Institution (SAI) is required as soon as possible to monitor the MoI. Its staff should be trained to oversee procurement for 'special purposes', which is excluded from the regular public procurement system (article 183 of the *Law on police*). They should also be trained to oversee payments allocated to special operational needs (article 184 of the *Law on police*), additional revenues from the provision of MoI services (article 182 of the *Law on police*), including extra-budgetary resources intended for the improvement of police work in the form of aid or donations coming from the non-governmental or other legal entities (article 19 of the *Law on police*).

Average grade: 2 (two)

[259] *Proposed response to CCMR questions,* 10.

[260] Transparency Serbia. *Budget classification 481 (2003 – 2007), proposed Serbian budget for 2008 and for the future* http://www.transparetnost.org.rs

[261] Official Gazette of the Republic of Serbia, no. 29/2005

[262] Tamara Marković-Subota, 'Zbog nabavke nekvalitetnih uniformi uhapšeni samo referenti'", *Blic*, 15 December, 2008, http://www.blic.rs/hronika.php?id=70055

PARTICIPATION OF CITIZENS AND CIVIL SOCIETY ORGANISATIONS

Participation of citizens and civil society organisations in policy making

During the early transition period civil society (apart from human rights organisations) lacked sufficient understanding of how the police functions. Knowledge is needed in order to provide efficient monitoring of the MoI and to facilitate reform of the state security sector. This lack of expertise within civil society and the media, combined with politically-motived appointments in the police, undermine thorough scrutiny. It also allows the police to act as the driver of reform. All laws submitted for adoption, as well as priority areas for obtaining donor financial assistances, have been proposed by the police service itself. Rare proposals of laws and strategies,[263] drafted by civil society organisations have been mostly ignored during the development of the legislation.

Insufficient transparency, the lack of clear priorities and a centralised decision making process are the main obstacles to public and civil society participation in the creation of the MoI policy. The MoI should upload drafts of new laws and strategies onto its website more often, and it should use public events to invite all interested citizens and organisations to give comments (as was the case with the proposed *Law on road traffic safety)*. As well as representatives from acadeMoI and civil society organisations, other interested citizens should have the possibility to express their opinion, even if this is by e-mail. This has not been the case so far, since public debates are open only for select organisations. Public perception survey conducted at the end of 2008 under the sponsorship of the OSCE Mission asked about public perception of the police. The results showed that 74 per cent of respondents did not see any possibility for influencing the development of police priorities in their own communities.[264]

[263] These are the examples of alternative draft laws and policies we have learned about during interviews with representatives of the MoI and civil society organisations in August 2008. The best known examples of draft laws that were never adopted are the *Law on police*, developed by LEX (2004), three alternative drafts of a law on private security companies developed by the experts of CCMR, LEX and the Association of Private Security Companies, as well as the draft National Strategy Against Organised Crime, developed by the working group led by the Centre for Security Studies. The exception to this rule is the proposal for amendments in the Criminal Act, in the part where it regulates the issues of domestic violence and human trafficking, where women's organisations participated as equal partners in legislation development.

[264] Strategic Marketing Research (November 2008), Public Perception Survey on Police Reforms (for the OSCE Mission in Serbia). Available at http://www.mup.gov.rs

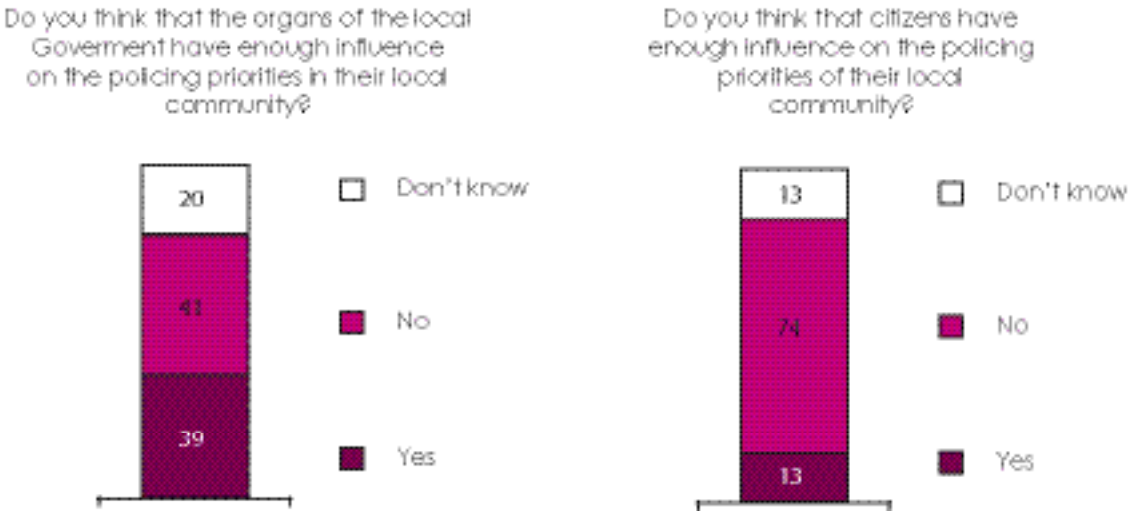


Chart 7: How the members of the public perceive the possibility of influencing the police priorities in their communities

The MoI should establish a process for holding regular consultations with civilian society organisations at the national and local level. Also, it should inform all interested citizens about the possibilities for participation in such events. Besides regular monitoring of public perception, it should also open channels for immediate consultations, such as designated telephone lines and e-mail addresses. This could be followed by the establishment of a standing consultation body comprising representatives of civil society and acadeMoI. During interviews conducted in August 2008 as part of the project 'Increased citizens participation in security policy', the MoI stated it was not sufficiently informed on civil society expertise. It also noted that the prevailing centralised management style discouraged the fostering of partnerships with civil society organisations.

Partnerships with CSOs could be used to improve MoI capacities and would enable it to fulfil obligations in the process of Serbia's accession to the EU. The MoI management should consider the establishment of a standing consultation body consisting of representatives from civil society and acadeMoI with expertise in police reform and EU integration. Such a body would have an advisory role in policy and law making, and also in the process of programming of the pre-accession assistance available in the IPA funds. This is crucial for Serbia's progression towards the EU. Furthermore, in order to improve the MoI's readiness to harmonise its laws and polices with those of the EU, civilian academic and research institutions should be involved in the development of comparative studies on solutions implemented by other countries. These are reasons why the use of grants for civil society organisations (budget classification 481) should be used to commission alternative policies proposals and analysis from CSOs.

Average grade: 2 (two)

Participation of citizens and civil society organisations in policy implementation and evaluation

Police relations towards civil society organisations have improved since the 1990s when they were treated as 'enemies of the regime' and as 'foreign mercenaries'. The *Law on police* provides for police cooperation with citizens, informal and organised groups and local government,[265] and the novelty is that in the second instance proceedings upon complaints against police, the citizens are involved through their representatives who are selected to be members of the Committee for complaints against police officers. In practice, most progress has been made with the organisations that deal with protection of children and women rights.[266] Cooperation is less intense and less frequent when it comes to *technical expertise* organisations (independent research centres conducting analysis on police reform), as well as organisations that regularly monitor the police in relation to human rights. The least cooperation occurs with *representation* organisations that promote the interests of minority, socially vulnerable and marginalised groups. However, there have been some positive steps with LGBT rights organisations through a programme of prevention of hate crimes and through community policing programmes. Civil society representatives believe that the police should act proactively and in more transparent manner so as to become closer to the citizens. MoI employees believe that the overly centralised decision-making and the prevailing organisational culture do not enable them to foster partnerships with the members of the public.[267] The greatest progress in cooperation with citizens and local level associations was made in municipalities where the concept of safe communities has been implemented, and through 'Community Policing Programmes'.[268]

[265] *Law on police*, Articles 6, 17, 144, 180 and 188, the Official Gazette of the Republic of Serbia no. 101/05

[266] Želimir Kešetović, *Final report on the first phase of the project 'Police and minorities and socially vulnerable groups'* (Belgrade, London: OSCE Mission in Serbia, British Council, 2006), 5

[267] These conclusions have been drawn up based on interviews conducted with MoI managers and representatives from CSOs in August 2008, as part of the project *Increased citizens participation in security policy.*

[268] Pilot Community Policing Programmes has been implemented in the municipalities of Bačka Palanka, Kragujevac, Novi Bečej, Novi Sad, Požega, Vrnjačka Banja, Zvezdara, Požega, Bujanova, Preševo and Medveđa, and as part of the UN Habitat programme 'Safe Community' in a number of municipalities co-operation between the police, the local authorities and the public has been intensified (e.g. Valjevo, Niš).

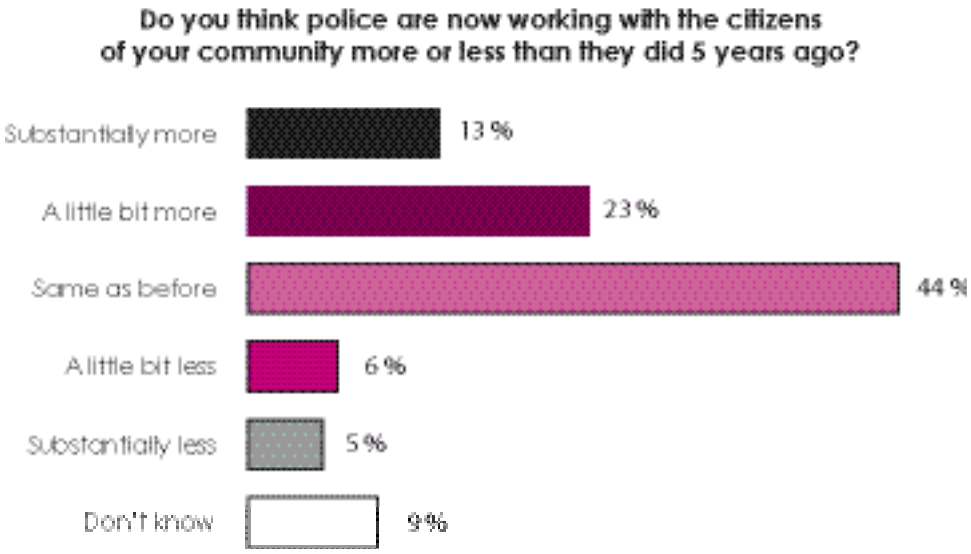


Chart 8: Assessment of cooperation with citizens at the national level[269]

It is necessary, as soon as possible, to adopt the National Community Policing Plan. The police should also harmonise its organisational structure and set aside funds necessary for this implementation. The MoI is obliged to do so in line with the National Strategy of the Republic of Serbia for Serbia and Montenegro's EU Accession from 2005. The plan should incorporate lessons learned from experiences of implementing Community Policing Programmes piloted in ten municipalities in Serbia, as well as the experiences of other municipalities in which similar initiatives have been launched. As part of this initiative, the police should be adequately adjusted to work with other public authorities, local government and the public. Through its Department for Preventive and Community Policing within the Uniformed Police Directorate, the MoI should support the institutionalisation of co-operation with local communities. This is best achieved through regular meetings of citizens' advisory groups at the local community level, but also through cooperation with local authorities and CSOs within inter-agency bodies established in some municipalities in Serbia (e.g. municipal safety councils and committees, municipal committees for the prevention of addiction, school safety councils, etc.).[270] Establishment of such bodies should be encouraged all over Serbia. And teams in all regional police districts should be established and trained to participate. Decentralisation of decision-making is a requirement. Authority on issues related to police work in

[269] Strategic Marketing Research (November 2008), Public Perception Survey on Police Reforms (for the OSCE Mission in Serbia). Available at http://www.mup.gov.rs

[270] In a presentation organised by the OSCE in Ečka on 29 February, a representative of the MoI said that there are currently around 100 different inter-agency bodies whose aim it is to deal safety issues at the municipality level.

local communities should be transferred to municipal and regional police bodies. Such a change is a necessary precondition for the establishment of efficient cooperation between regional police district managers and representatives of local authorities and civil society organisations.

Other possibilities for public involvement also exist. The MoI should facilitate and encourage CSO visits to detention units. It should support the commissions which are questioning the use of coercion and it should foster partnerships for victim protection (for instance victims of human trafficking and domestic violence and asylum seekers). It should conduct activities and campaigns with CSOs and informal groups, including minorities, marginalised and socially vulnerable groups. Trainings and campaigns should be organised to inform CSOs about police work so they can establish adequate partnerships with the police to resolve safety problems and provide control and oversight.

Average grade: 2.5 (two and a half)

ACCOUNTABILITY – DEMOCRATIC CIVIL CONTROL AND PUBLIC Control and oversight

Control by the Executive

The 2005 *Law on police*[271] introduced *de jure* categorisation of police into professional and operational components (Police Directorate, Protection and Rescue Service), separate from the development and supervision roles of the MoI. This categorisation should reduce political interference in the operational management of the police. A deeper analysis of the law implies that jurisdiction over the majority of decision-making processes remains in the hands of the minister.[272] For instance only the minister can nominate and remove from duty heads of the regional police directorates although these directorates are, according to existing chains of command, directly accountable to the director general of the police. Also, the minister has many discretionary rights, such as the use of specialised units. The minister can also choose to exclude the MoI from public procurement procedures or decisions as regards data from the internal control investigations.

Police decision-making processes on all levels are affected by government

[271] *Law on police*, the Official Gazette of the Republic of Serbia no. 101/05.

[272] As many as 44 articles of this law refer to various competences of the minister of interior, whereas only eight of them regulate the exclusive competences of the police director general.

interference. This is echoed in public perception surveys showing that 74 per cent of citizens believe that politicians influence police work and that the police is only an instrument for protecting the government and political interests.[273] In order to reduce politicisation and at the same time enable efficient functioning of the MoI, the Sector for Internal Control should effectively supervise the legality of all work conducted by MoI employees.

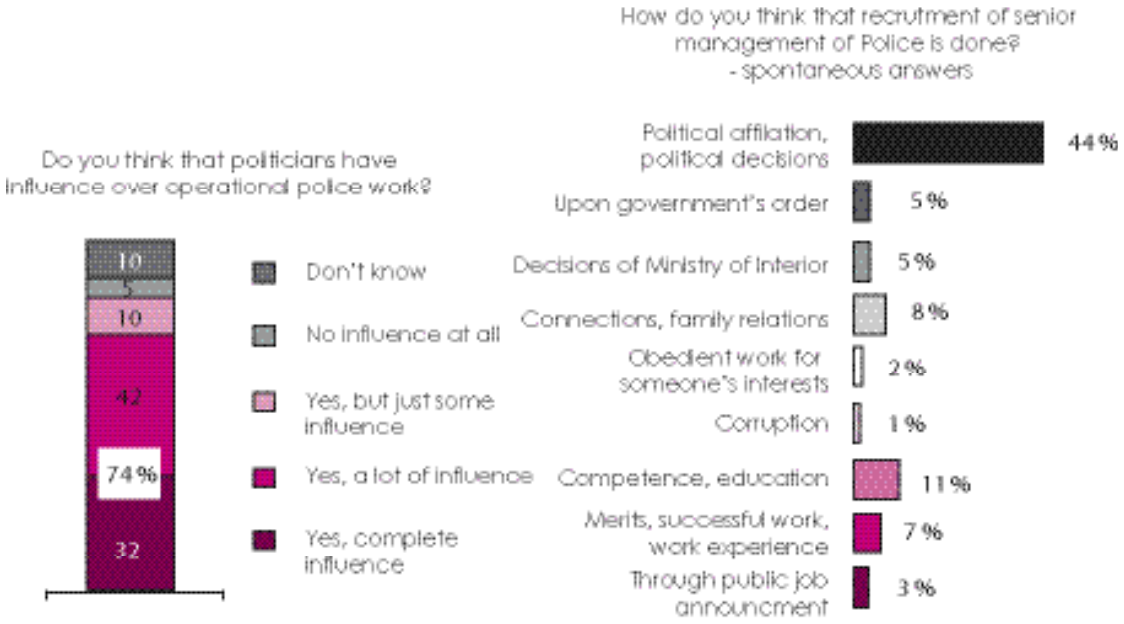


Chart 9: Political influence on the operational police work and appointments of MoI managers

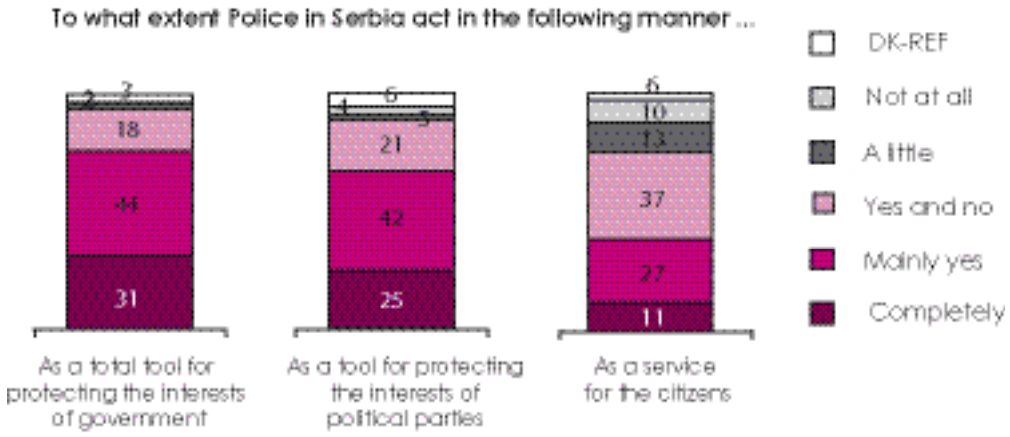


Chart 10: In whose interest do the police in Serbia work?

[273] Strategic Marketing Research (November 2008), Public Perception Survey on Police Reforms (for the OSCE Mission in Serbia). Available at http://www.mup.gov.rs

The competences of the director general of the police should be increased in order to reduce the possibility of politicisation and to ensure operational independence of police from the Ministry. For this reason the *Law on police* should be amended to enable the director general and not the minister to appoint and dismiss heads of regional police districts (article 24). The MoI's discretionary powers should also be reviewed. Articles 177, 178 and 175 of the *Law on police* should be changed to ensure independence. Control of the head of the Internal Affairs Sector (article 177) should be the responsibility of government and parliamentary committee instead of the minister. Furthermore, the minister should only delegate tasks of individual police control to those police officers from the Internal Affairs Sector (article 175), or restrict access to documents, premises or certain data vital required by the sector (article 175). The sector's regional internal affairs centres should be provided with more staff and better equipment to enable the efficient work of this unit outside Belgrade. The sector's activities should be increased, especially when it comes to investigations of police corruption, and it should be allowed to 'test' the potential for police officers towards corruption. At the same time it is essential to create mechanisms for protecting police officers from malicious and false accusations.

Average grade: 3 (three)

Parliamentary control and control and oversight

Parliamentary supervision and control is the weakest link in the process of police democratisation, primarily due to a lack of will from political parties and MPs to actively participate in parliamentary control and oversight. The Ministry of Interior submits annual reports on its activities and the national security situation to parliament, as stipulated by the *Law on police* (article 9). Information on cases of unjustified or unlawful coercion (violations of human rights) are also included in the report and made publicly available. Article 179 specifically states that the Internal Affairs Sector can submit a report following a request by the parliamentary working body in charge of security and police work (the Security and Defence Committee of the National Assembly). The law also envisages the possibility of submitting this and other reports more frequently, according to requests by parliament and the Security and Defence Committee. Local authorities can receive similar reports on request by the Security Committee of the Assembly of Autonomous Province (Article 17).

Between 5 October 2000 and end of 2008 the Security and Defence Committee held 20 sessions in which it discussed aspects of the MoI's work or proposed legislation. Based on the analysis of the agendas we can conclude that the MoI's Activity Report was the most frequent topic (ten times), followed by reports on the results of the 'Sabre' police action and respect of human rights

during this action (five times). Security situation reports were discussed twice. A report on inter-ethnic relations in Vojvodina, a report on the arrest of Radovan Karadzic, a report on the burning of secret service files after October 2000 and a report on the proposed *Law on travel documents* were discussed once respectively. The majority of the proposed laws from the MoI were debated in plenary and extraordinary sessions, without debate in the Security and Defence Committee and without the involvement of external experts in these discussions. Reports on police activities and the security situation in Serbia are discussed once or twice a year but they do not touch certain topics and do not go deeply into the strategies initiated by the police. The last MoI report was submitted to the Committee in October 2007. This illustrates that the *Law on police* is inadequate, since it does not oblige the Ministry to submit the report to the Committee unless requested by members of the Committee. It also indicates that Committee members are not active enough. The only police-related topics discussed in Committee sessions concerned the politicised investigation of the police in operation 'Sabre', police actions towards the Hungarian ethnic minority following allegations of ethnically motivated incidents in Vojvodina, and the circumstances of Radovan Karadzic's arrest. Neither parliament nor the Security and Defence Committee have ever used the possibility (as stipulated by parliamentary Rules of Procedure) to discuss control and oversight over the use of resources and the procurement of weapons, or to request a special report from the Internal Affairs Sector. Similarly they have never sought to inform the public on important issues concerning the police and the MoI.

Parliamentary control and control and oversight must be used to depoliticise the police. MPs, and particularly the Security and Defence Committee, should undertake initiatives to oversee the MoI's work. This is why it is essential to develop a plan of activities for the Committee which would include discussions on proposed laws, as well as topics such as financial management in the MoI, police actions towards minorities, and marginalised and socially vulnerable groups. The Committee should meet frequently in order to thoroughly analyse proposed laws and overview MoI policies. Parliament should consider introducing regular Committee sessions so that it can prepare timely reactions to different political situations.

The sessions of the Security and Defence Committee should be public, to give the public a better understanding of the issues and better insight into the Committee's work. The minutes of these sessions and discussed documents should be published (unless they are classified as confidential). The Committee should also respond to public and media questions. For this reason the Committee should publish information on its future sessions and create mailing lists to disseminate information to the media, CSOs and other interested parties. A mechanism should be created to enable the Committee to request information from the government and to efficiently respond to the questions of the wider

public. This would improve the public image of MPs and parliament. This is also a cost-efficient way of improving public opinion on parliament and the police.

Average grade: 2 (two)

Judicial control

Judicial control over the police and the Ministry is entirely grounded on the control of the legality of specific evidence procedures. It decides on the legality of administrative decisions, on criminal liability of police officers, and in awarding damages to citizens. Judicial consent in writing is required for the use of specific evidence procedures such as; secret audio and video surveillance; rendering false services and making false legal business deals; the engagement of covert investigators; and the controlled provision and computerised search of personal and other data which is primarily regulated by the Criminal Procedure Code.[274] Although information on the number of approved measures for secret intelligence collection are not available to public, representatives of the judiciary underline that due to organised crime, issuing licences for use of specific evidence procedures are more frequent in Serbia rather than in other countries.[275] Due to inadequate capacity, during the period of observation, the judiciary was not able to keep and destroy gathered data, and it was left instead in the Ministry's possession.

The judiciary uses forms of control sporadically, although the situation is much better than before 2000. The training and professional development curricula for prosecutors and judges should be directed at improving knowledge of control over security sector actors. In particular, reports from the courts and public prosecution offices should provide information on specific types of control over police work, including information that indicates difficulties encountered while executing this control. This information should be made available to the public.

Average grade: 2.5 (two and a half)

[274] Bogoljub Milosavljević, 'Ovlašćenja policije i drugih državnih organa za tajno prikupljanje podataka', in *Demokratski nadzor nad primenom posebnih ovlašćenja*, Eds. Miroslav Hadžić and Predrag Petrović. (Belgrade, Centre for Civil-Military Relations, 2008), 59–76.

[275] Dragan Jovanović, "Posebna prava i ovlašćenja koje primenjuje policija", in *Demokratski nadzor nad primenom posebnih ovlašćenja*, Eds. Miroslav Hadžić and Predrag Petrović. (Belgrade, Centre for Civil-Military Relations, 2008), 85–97.

Public control and oversight

During the period of observation, legislation defining external control and oversight over police work was adopted. The following institutions were also established; the Commissioner for Free Access to Information and Protection of Personal Data, the Protector of citizens, the State Audit Institution, and the Commission for Preventing Conflict of Interest in Performance of Public Functions. To date, only the Commissioner for Free Access to Information of Public Importance and the Ombudsman have exercised control and oversight over the MoI. Their recommendations and conclusions were broadly received by the public. However, they were not fully implemented due to a lack of enforcement capabilities. It is expected that through amendments to relevant legislation the conditions for efficient work will be created in the near future and that the above institutions will have adequate resources and working conditions. The control that these institutions exercise should be particularly strengthened in the areas of personal data protection and financial management in the MoI.

Average grade: 3 (three)

RULE OF LAW

State of Law (Rechtsstaat)

Detailed analysis of the legal framework of police organisation and work is given in the chapter by Bogoljub Milosavljević in this publication.[276] As the chapter indicates, most of the laws and by-laws which regulate police work are not harmonised with the 2006 Serbian Constitution, and many of them date back to the period before the beginning of reforms in 2001. In order to fully implement police reform it is essential to harmonise the legal framework with the constitution and ratified international agreements (formal legislative harmonisation), as well as with the goals of police reform and commitments stemming from the Stabilisation and Association Agreement (articles 80–87), including regional cooperation commitments (substantial harmonisation). To achieve this in the most efficient way, the government should adopt a plan to harmonise legislation relevant for the MoI. One idea that should receive particular attention is taking some administrative responsibilities from the MoI and giving them to other ministries and public authority bodies.

Average grade: 3 (three)

[276] Bogoljub Milosavljević, 'Legal Framework of Police Work'.

Protection of human rights

Protection of human rights of citizens and employees in the MoI has improved significantly since 2000 when human rights were systematically violated. The legal preconditions for the protection of human rights were established by the *Law on police*, the *Code of police ethics* and other by-laws. They are, to the great extent, harmonised with international standards of protection of human rights, apart from areas which regulate access to information of public importance, secrecy of data and protection of personal data. As part of a thorough revision of laws and by-laws which regulate the police, particular attention should be given to human rights. There should be verification of the extent to which the legislation is harmonised with international regulations which Serbia has signed. It is essential to fully implement the recommendations and conclusions of reports by the European Committee for the Prevention of Torture and the UN Committee against Torture. The government should provide resources to improve the situation in detention units and in interrogation rooms. As Bogoljub Milosavljević points out in his paper, during the revision process, particular attention should be paid to internal police enactments (internal instructions and directives). These regulations are adopted by the Minister of Interior and are not published. The majority are classified documents. Since they frequently affect police officers' work directly, it is very important to have some form of control over content. Therefore external actors should have access to these documents so that they can judge if they are harmonised with the goals of police reform, and with the constitution and the law.

Protections of human rights, non-discriminatory policing and relevant documents have been introduced into basic police training and annual professional development programmes for of all MoI staff. However, only a few hours are designated for these topics. The greatest progress, in particular concerning excessive use of force, was accomplished with the establishment of the Internal Control Sector and the publication of the procedures for filing complaints against the police. The *Law on police* calls for the MoI to submit a report once a year containing information on the number of cases in which the use of coercive means was unjustified or unlawful, and that it should be available to the public. In the last two years, since the management of Internal Affairs was dismissed, information on the number of complaints against the police and cases where force is used have rarely been published and they are more difficult to find on the MoI website. The least progress was achieved in the protection of collective rights, for instance in the official use of minority languages, as well as in privacy rights. Some of the documents on citizens' rights, such as the *Code of police ethics*, the brochure on filing complaints (or commendations) against the police and application calls for basic police training, have been translated into the minority languages. Still, the police buys technical equipment adjusted only to the Cyrillic alphabet, and in many places documents are not issued in minority languages.

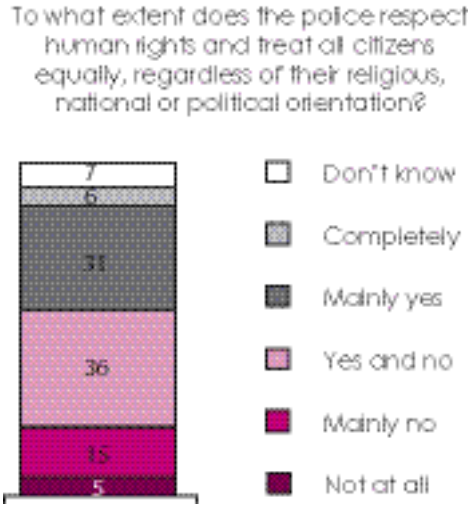


Chart 11: Non-discriminatory policing[277]

Moreover, international and local civil society organisations draw attention to cases of brutality as well as to inappropriate conditions in detention units.[278] The *Report of the delegation of the European Committee for the prevention of torture* stated that the delegation was aware of cases of verbal and physical harassment, especially during suspect interrogation. In some police stations baseball bats and metal bars were also found in prominent places.[279] The Belgrade Centre for Human Rights states in its report on human rights in Serbia that the police often accuses victims it has tortured of obstructing police work (counter-accusations). As a result, parallel cases sometimes take place in the courts.[280] Cases against police officers very rarely result in a conviction, and if a verdict is reached, in most cases it is not enforced. In the larger cities there has been a clear improvement in respect to human rights, but in smaller communities the police is still untouchable.

In spite of the introduction of many new formal standards, the legacy of reactive and oppressive standards of conduct is likely to last for some time because of informal socialisation in police culture. Changes, such as those in the concept of police training and the introduction of democratic police ethics and

[277] Strategic Marketing Research (November 2008), Public Perception Survey on Police Reforms (for the OSCE Mission in Serbia). Available at http://www.mup.gov.rs

[278] See: Ana Jerosimić, Ed., *Ljudska prava u Srbiji u 2007. godini* (Belgrade: Belgrade Centre for Human Rights, 2007).

[279] *Report to the Government of Serbia on the visit to Serbia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 19 to 29 November 2007*, 14.

[280] See: Ana Jerosimić, Ed., *Ljudska prava u Srbiji u 2007. godini* (Belgrade: Belgrade Centre for Human Rights, 2007).

standards, will take time to implement. It is even more important for management to continuously implement new values. In practice this may require a generational change of personnel in management structures. Apart from improving protection of citizens' rights, it is vital to improve protection of social and economic rights of MoI employees and to create mechanisms for the protection of police officers against malicious accusations.

Average grade: 3 (three)

EFFICIENCY

One of the weakest points in police reform is the excessively centralised, politicised, uneconomical and obsolete management style, which contasts with modern principles of material and human resource management in public administration. Considering the funds used by the MoI, (and compared to other state institutions), police reform should prioritise a holistic efficiency review of resources (for instance, maintaining a huge number of personnel for support services such as the Directorate for Lodging and Catering) and introduce a system of material and human resource management.

Human resources

A priority of the police reform should be the professional development of the HR Directorate to conduct the selection, promotion and career development of all police officers and supporting staff. This requires a complete change in mode of operation of the HR Directorate, the development of new procedures, additional training of employees and the hiring of HR experts. Then, in line with the strategic plan, a holistic analysis and the review of personnel is needed. As Table 20 shows, the number of classified and occupied positions in the MoI has varied significantly during the past few years. Reports submitted by the MoI to parliament show stable trends with regard to the lack of interest in police careers in Belgrade, Pozarevac and some towns in Vojvodina, but also the lack of engineers, law graduates, psychologists and other professions. This is why it is worth offering scholarships to undergraduate and graduate students of various profiles, as this would help fill some of the specialists vacancies needed by the police. A system of accelerated promotion for talented individuals should also be introduced, and also the possibility of allowing individuals to conduct their military service in the police. On the other hand, some of the organisational units of the MoI, such as the Directorate for Catering and Accommodation, are over-staffed. Some of regional police districts have achieved equal or better results with a smaller number of staff then other districts with more staff mem-

bers (when comparing municipalities of similar size and levels of policing). The review of human resources could help to remedy these imbalances and define the educational profiles required for specific positions, including the identification of redundant jobs. The review should lead to changes in how jobs are classified. The conclusions should be used to develop appropriate social programmea and financial resources to reduce employee numbers. Furthermore, an independent review should be conducted on salary structures in the MoI and new salary grades established.

Provisions within the *Law on Police* which are not in line with modern career development principles should be reconsidered. Currently, the primary precondition for promotion is number of years in service.[281] All management and command positions should be filled through an open competitive process, and not through appointments and lobbying. Promotion should be based on merit and should be conditioned by successful completion of management courses. Different training packages should be developed for lower, mid and senior management levels. Furthermore, in order to achieve similar levels of knowledge and skills across the MoI, it is crucial to standardise specialised training for employees in different lines of work. The mechanisms of efficient coordination and standardisation of specialised training should be put in place by the Directorate for police education, training, professional development and science. This Directorate would co-operate closely with other organisational units and the Directorate for Human Resources. Standardisation of specialised training should contribute to cost-effective implementation and, at the same time, leave sufficient capacity for specialised topics required by staff from different organisational units of the MoI.

Average grade: 2 (two)

Material resources

During the observed period, considerable funds from the state budget, the National Investment Plan, as well as donations from international partners were spent on modern equipment. Forensics, serious crime, organised crime teams, as well as communications and IT systems have benefitted to a certain extent. With the assistance of international organisations and partners, regional forensics centres were established in Belgrade, Novi Sad and Nis, including DNA and biological expertise laboratories. New equipment for issuing personal identification documents was obtained, including an automated fingerprint identifica-

[281] The *Law on police* envisages promotion without competition if the incumbent had positive performance appraisal over the past two years, which means pass grade 2 (satisfactory), 3 (good), 4 (very good) or 5 (excellent).

tion system (AFIS) and a face identification system (FIS), and also equipment for the development of a digital radio network in line with TETRA standards. Given technical and technological developments and the fact that criminals have more and more sophisticated technologies, the MoI needs to invest in new and existing equipment. It is assumed that the largest investment in the next few years will be in the border police, in order to meet the requirements of the Schengen Agreement. The first step is a review and assessment of new needs.

Experts and other state bodies should participate in analysing the costs of modernisation (IT, communication and other equipment). This analysis should indicate the mid-term and long-term consequences of procurement of particular equipment, help avoid over-reliance on one manufacturer and ensure compatibility with other communication and IT systems in public administration in Serbia.

The development of functional crime intelligence analytics in the police should be of primary importance and should be available to all operational units. This change would facilitate intelligence-led policing. A comprehensive critical review should be conducted in line with predefined efficiency criteria, focusing on methods of gathering, storing and retrieving information on the current and future costs of this investment.

Average grade: 3 (three)

EFFECTIVENESS

Integratedness of System

There are many areas where the MoI's jurisdiction overlaps with other security sector bodies. This includes the response to emergency situations and the fight against terrorism and organised crime. Adoption of a National Security Strategy and Constitutional amendments should clarify the jurisdiction (role) of various state bodies in the implementation of security policy. The strategy of the MoI should be harmonised with the National Security Strategy as well as other strategic government documents, such is the Strategy for Accession of Serbia and Montenegro to the EU.

The current management system needs to change in order to improve cooperation with other state bodies. This system is characterised by centralised decision-making and micro-management processes (interference in day-to-day management). Most police services have a clear hierarchical structure. However if the vertical lines of responsibility are highlighted (with a small number of decision-makers on the top) the development of the horizontal lines of communication and coordination of different MoI units would be prevented. The mechanisms for horizontal cooperation within the MoI need to be strengthened, cou-

	Classified posts	Occupied posts	Authorised police personnel	Uniformed police officers	Specific duties	Specific duties – fire fighters	Source
2001	**?**	**35,000**	**21,000 out of which 6,000 in Special Police Unit**				*Study on policing in FRY* (2001), OSCE Mission in FRY, p. 33
Jan 2002-Jun 2002	**51,008**	**34,055 (66.79%)**	**3,917**	**19,699**	**2385**	**3045**	*Information on security situation in Serbia between January and June 2002*, MoI Report presented at the session of the Parliamentary Security and Defence Committee, 15 July 2002
2002		**41,225**					*Police reform in Serbia – towards a modern and accountable police service* (2004), OSCE Mission in SaM
Jun 2003	**53,580**	**38,187 (71.27%)**	**4466**	**22,577**	**2701**	**3357**	Ivan Đorđević, «Pregled procesa reforme MUP RS», in: Janković, Pavle (2003), *Druga škola reforme sektora bezbednosti* (Beograd: CEPROB, G17 Institut), p. 174–175.
Oct 2004	**53,580**	**40,320 (75.25%)**					*MoI Activity Report between 1 March and 31 October 2004,* MoI Report presented at the session of the Parliamentary Security and Defence Committee, 15 November 2004
Since Nov 2004 until Apr 2005	**65,314**	**44,262 (67.8%)**					*MoI Activity Report between November 2004 and April 2005,* MoI Report presented at the session of the Parliamentary Security and Defence Committee, 17 June 2005
Aug 2005	**48, 401**	**33,284**	**5287**	**27,997**			Novović, Snežana & Petrović, Dijana (2006), *Žene u policiji* (Beograd: MUP, VŠUP), p. 43.

Table 20: Overview of human resources in the MoI

pled with improved internal information flow systems, as well as through more significant de-concentration[282] of decision-making. Changes in management sytle are preconditions for improving communication and coordination of MoI units with other state authorities. Representatives from other ministries commended the MoI for being more open for cooperation compared to the 1990s. At the same time, they criticised the Ministry for failing to initiate partnerships with other bodies in the state administration as well as with civil society organisations.

Over the next few years, the MoI management needs to support the establishment of mechanisms for horizontal cooperation with other state bodies on the development of joint policy and legislative proposals, as well as mechanisms of operational cooperation (in particular with those bodies that are not part of the National Security Council).

Average grade: 2.5 (two and a half)

Legitimacy

The police reforms instituted to date have contributed to an increase in public trust in the police. However, distrust still prevails. According to the survey conducted by Strategic Marketing at the end of 2008, 28 per cent of citizens have a positive opinion about the police, compared to 30 per cent with a negative one. This places the police among the most trusted institutions, though against a general context of poor trust in institutions.[283] Public opinion of the police is more positive than for the MoI: 23 per cent of citizens have a positive opinion, while 32 per cent have a negative one. Approximately half of citizens consider the police to be estranged from them, while the other half considers that they are close to the citizens (Chart 10). According to what the public associates with the police and police officers, it is clear that there are more positive and neutral than negative associations. As mentioned, the vast majority of citizens still believe the police is politicised, serving government and political interests rather than those of the public. The Serbian government needs to ensure police neutrality and to promote the police as a public service. For this to happen, certain procedures within the MoI need to change, such as the attitude of political lead-

[282] De-concentration is a process managed by central government, or in this case the Ministry HQ. Certain decision making competencies are delegated to lower levels of management within the hierarchy of the MoI, e.g. to the managers/heads of police districts. De-concentration entails keeping the hierarchy of decision-making and accountability at the Ministry HQ, while at the same time it allows a larger number of day-to-day decisions to be made at the lower level of management, in consultation with the public. Unlike de-concentration, decentralisation entails the transfer of competencies to directly elected bodies or individuals, e.g. to Municipal Councils or the heads of police districts that would be directly elected, such as sheriffs in the USA.

[283] Only the church, army and education system have higher percentages of trust than distrust.

ership in public appearances. There needs to be regular monitoring public opinion concerning the politicisation of the police. Certain civil society groups, in particular, young urban society and members of certain national minorities, do not have sufficient trust in the police due to past discriminatory treatments and inadequate communication systems. The Ministry of Interior should develop creative methods to increase trust among groups with the least trust in police work. It should develop campaigns aimed at these target groups and cooperate with CSOs, as well as with the education system and local communities.

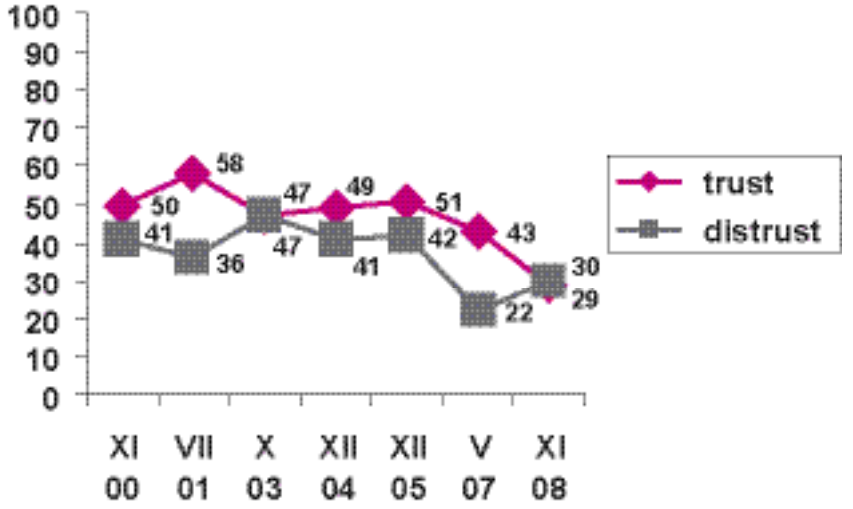


Chart 12: Trust in police from 2000 to 2008[284]

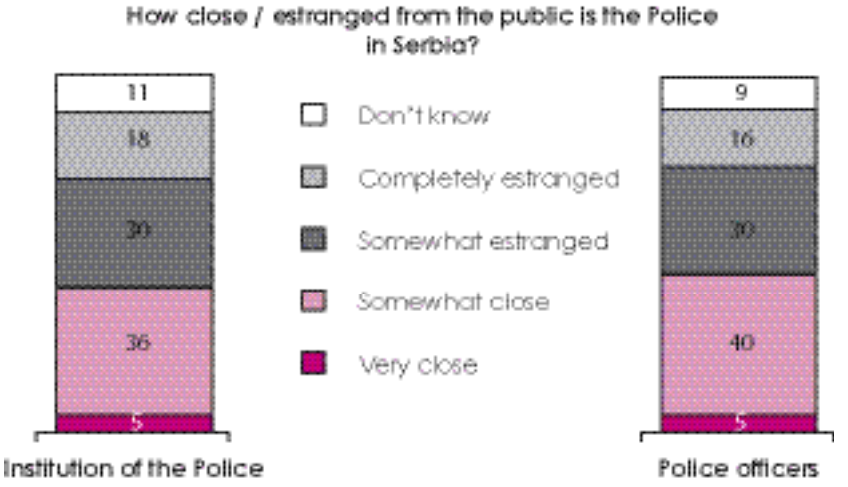


Chart 13: How close / estanged are the police from the public

[284] The chart shows the results of a survey conducted by the Centre for Political Studies and Public Opinion Research of the Institute of Social Sciences in Belgrade (http://www.idn.org.yu). Survey conducted in 2008 was done by Strategic Marketing and was commissioned by the OSCE Mission to Serbia.

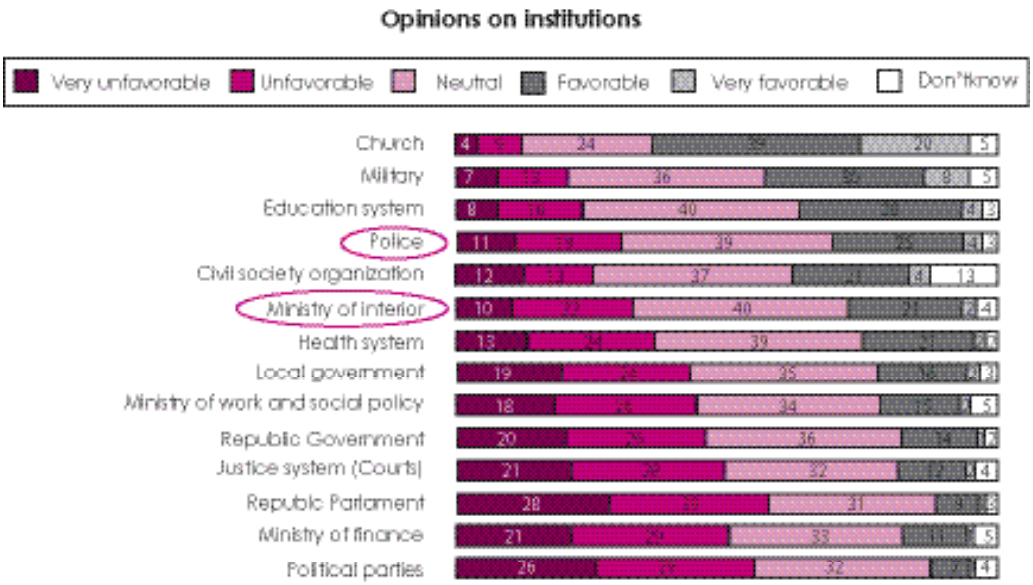
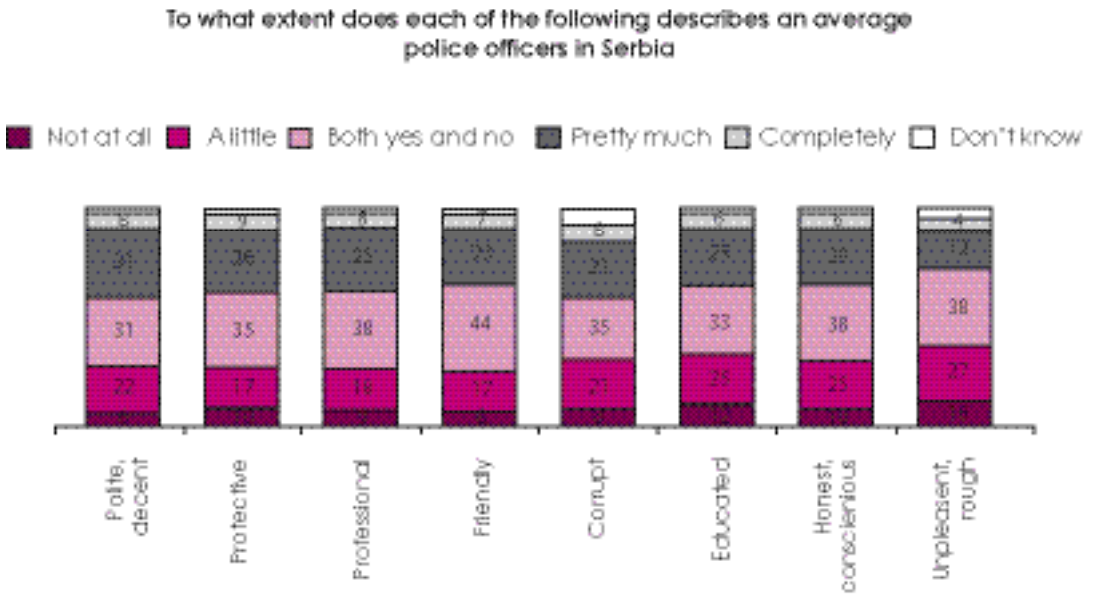


Chart 14: Perception of police and MoI in relation to other institutions

First association on Police	%	
Safety, security, protection on citizens	30,0	Positive 47,2%
They gard peace and order	10,2	
Implementationof laws / fight against crime	6,4	
Traffic police, policeman policaja	4,7	Neutral 13%
Uniform	4,4	
They aredoing their job people like others	1,9	
Crime	1,5	
Corruption	4,5	Negative 22.5%
Lack of professionalism	3,2	
Fines	3,0	
Beating, violence, maltretment	2,1	
Insufficient efficiency	1,9	
Nuisances, problems, conflicts	1,8	
Fear, awe	1,5	
Thievery, thefts	1,5	
Arrogance, stupidity, bad manners	1,4	
Advantaged, protected by regime	1,2	

Table 21: First associations regarding the police

Average grade: 3 (three)



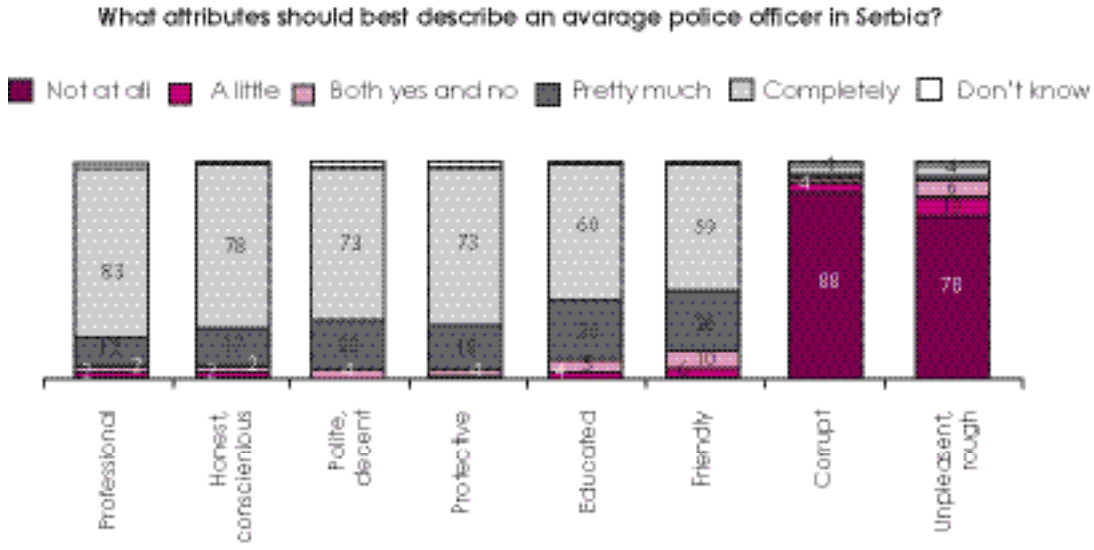


Chart 15: Perception of police officers

Ratio between Aims, Resources and Outcomes

Based on analysis of public opinion published at the end of 2008, citizens believe that the police are the most efficient means of maintaining public peace and order, and the least efficient in combating organised crime and resolving cases of journalists' murders. The charts illustrate public opinion about current and desired priorities for police reform. They indicate that citizens would like the police to invest more resources in combating corruption, maintaining public peace and order at the local level, in depoliticisation and the setting up of a control system within the police.

The main obstacle to greater efficiency in the MoI is a lack of consensus on key police reform priorities, as well as a lack of clarification of priorities in the strategic plan of the MoI. It is necessary to adopt a mid-term MoI strategy that clarifies reform priorities for a three to five year period. The MoI strategy should be harmonised with the MoI's annual plan, as well as with other strategies under the jurisdiction of the MoI and the state budget. When developing a strategy, it is important to define measurable success indicators that can be used for monitoring progress. Similiarly there needs to be agreement about the frequency

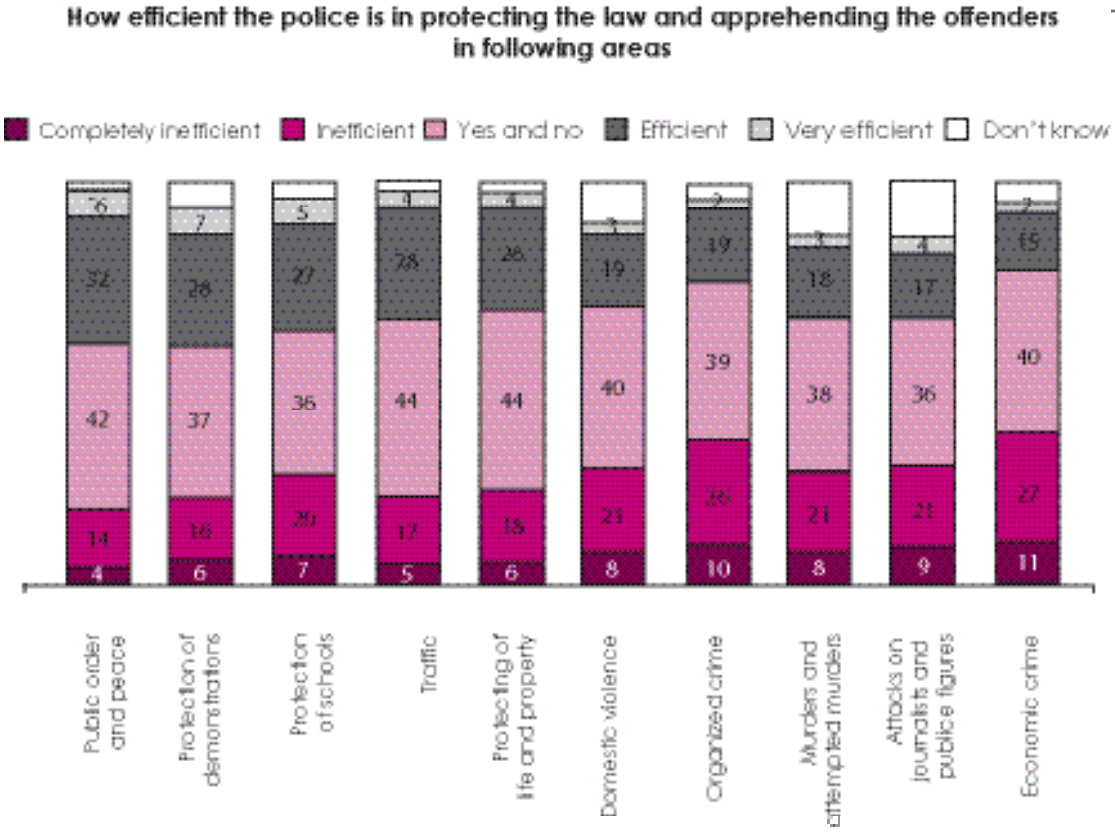
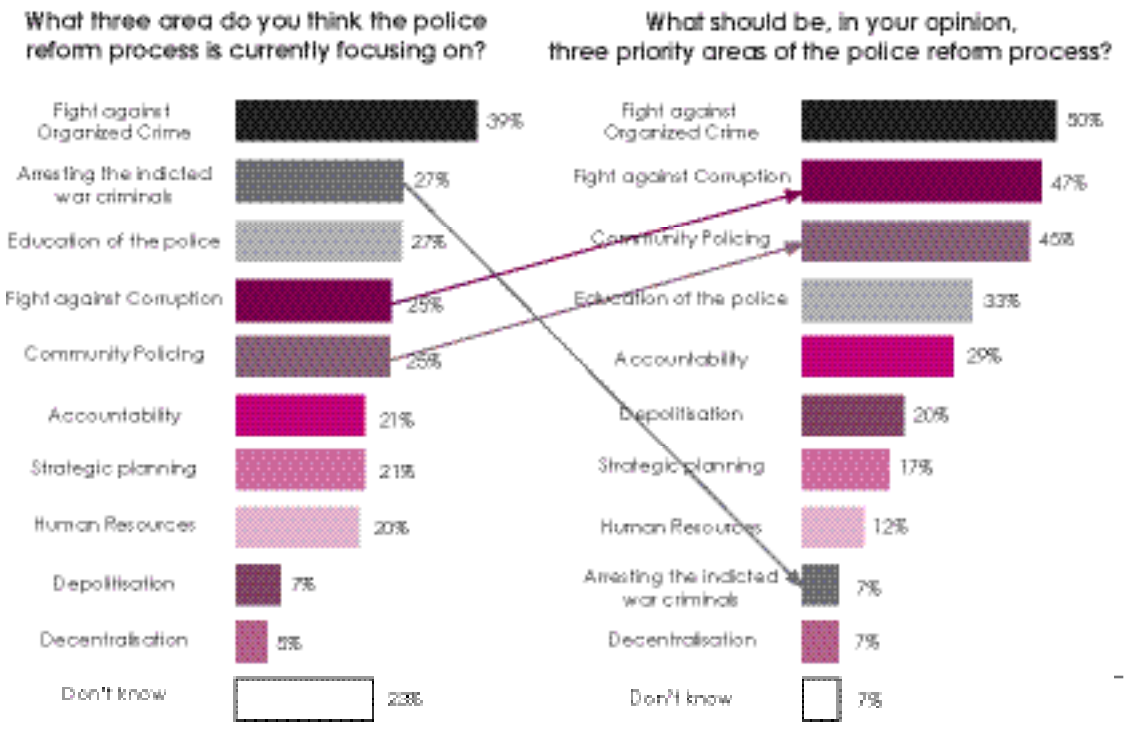


Chart 16: How do citizens evaluate police efficiency?

of publishing key indicators of success. Areas in need of particular attention should be highlighted. Training should be provided to enable staff employed in the Bureau for Strategic Planning in the Minister's Cabinet, as well as senior analysts working in the police districts, to participate in strategic planning and updating of documents. Strategic planning skills need to be incorporated in management training courses. More efficient police performance can be encouraged through the development of analytical capacities in all organisational units, and especially in the Analytics Directorate within the General Police Directorate, as well as the capacities for the criminal operational analytics. This can ensure more proactive and knowledge-based policing. The possibility of transferring administrative work (such as issuing IDs and personal documents) to the Ministry for Public Administration and Local Self-Government should be considered, as this would decrease the scope of non-police work of the MoI.

A strengthening of the capacities of the Bureau for Strategic Planning in the Minister's Cabinet or the establishment of a separate unit for evaluation of efficiency within the MoI is a prerequisite for regular control and oversight of the work of the MoI and police organisational units. At present, (in principle) it is the role of managers of different units and of the Analytics Directorate to prepares different statistical analysis of how the various organisational units perform in combating different forms of crime. An control and oversight unit is also needed in order to identify performance productivity problems, to analyse and control work processes and to ensure the enhancement of systems and methods of performance organisation. This unit would be in charge of periodical performance assessments, particularly in terms of efficiency, cost effectiveness and optimal organisation of work. Such data can highlight instances of poor efficiency and dysfunctionality, thus enabling damage control and prevention of waste of resources. The MoI and police activity reports submitted to the state control and oversight bodies should include data that enables a reliable assessment of efficiency and effectiveness.

Average grade: 2 (two)



Graph 3: What should be the priorities of police reform?

2.1 Legal framework of police work

Bogoljub Milosavljević

The organisation and remit of the police are regulated by a number of laws and by-laws. Only a portion of these regulations have been enacted since 2001 (when police reform in Serbia began), and out of those only a few are harmonised with the new Constitution of the Republic of Serbia adopted in 2006 (hereinafter: the Constitution). The majority of the remaining regulations date from before 2001 and they are still not harmonised with the Constitution and with the aims of police reform.

This chapter gives a brief overview of the legal and political context of police reform (I). It then provides a brief overview of regulations relating to the organisation and remit of the police (II). It also indicates the regulations through which the legal facet of policing extends to other areas such as services (III). Finally, the chapter highlights the main challenges facing police reform in Serbia (IV).

I. Legal and Political Context

The reform of legislation relating to the organisation and remit of the police has developed within a wider legal and political context consisting of: 1. the Constitution; 2. Ratified international agreements, including the Stabilisation and Association Agreement (chapter VII: Justice, freedom and security), as well as the other international legal and political documents dealing with standards of human rights in policing, and; 3. The government's strategic directions in police reform. Although the government did not adopt a separate strategy for police reform, there is a number of strategic government documents relating to police reform (such as the *National strategy against money laundering and financing of terrorism* and the *Regulatory reform strategy of the republic of Serbia for the period 2008-2011*).

II. A brief overview of regulations related to organisation and remit of the police

Regulations on the organisation and remit of the police can be divided into the following groups: 1. Regulations on police organisation; 2. Internal affairs regu-

lations which are directly enforced by the police or which are overseen by the police; 3. Regulations on certain powers, tasks and methods of police work, and; 4. Regulations that stipulate the control of police work and the conditions for the transparency of its work.

(1) Regulations on police organisation

1.1. The *Law on police* (2005) is supported by sixteen by-laws (adopted in 2006 and 2007). There are six other by-laws adopted on the basis of the previous *Law on internal affairs*. These six by-laws should be harmonised with the *Law on police*. Furthermore, the *Law on police* should be formally harmonised with the Constitution.

1.2. The remit of the Ministry of Interior is regulated by the *Law on ministries* (2008), and civil servant regulations apply to the police in a subsidiary manner (i.e. they apply to issues not regulated by the *Law on polic*e). For issues that are not regulated by the *Law on civil servants*, provisions of the *Labour Law* apply. Since the police is a public administration body, the *Law on public administration* (as well as other regulations related to public administration bodies and their obligations towards the government) apply. The *Law on general administrative procedure* applies to its administrative procedures (apart from in certain administrative areas which are regulated by separate procedure regulations).

1.3. The police has its own internal regulations which stipulate issues important for police work (internal instructions and guidelines). These regulations are endorsed by the Minister of Interior and are not published. Most of them are classified documents. Since they often directly influence police performance, it is very important that there is some kind of control of their content. However, these regulations usually escape the usual mechanisms of external control and oversight. Hence, without external insight into their contents, it is impossible to evaluate the level of harmonisation with the aims of police reform or with the Constitution and the law.

(2) Internal affairs regulations which are directly enforced by the police or which are overseen by the police

This group covers a substantial number of regulations which are enforced or whose enforcement is being overseen by an internal affairs authority, i.e. within the scope of the Ministry of Interior's work. One part of this group of regulations (especially those of an administrative nature) could be enforced by other administrative bodies. This was one idea considered during the process of conceptualising police reform. However, no significant developments in this regard have occurred to date and almost all the regulations that determine the competencies of internal affairs authorities are listed below. The list comprises 19 laws and 55 by-laws:

2.1. Law on public peace and order (1992, with amendments)

2.2. Law on public assembly (1992, with amendments)

2.3. Law on prevention of violence and hooliganism at sports events (2003, with amendments)

2.3. Law on basic organisation of road traffic safety (1988, with amendments) and ten by-laws; Law on road traffic safety (1974, with amendments) and eight by-laws

2.4. Law on protection of state borders (2008) and four by-laws

2.5. Law on foreigners (2008) and two by-laws; Law on asylum (2007) and five by-laws

2.6. Law on firearms and ammunition (1992, with amendments) and three by-laws

2.7. Law on transport of explosive materials (1985, with amendments); Law on transport of hazardous materials (1990, with amendments) and four by-laws; Law on explosive materials, inflammable liquids and gases (1977, with amendments) and one by-law.

2.8. Law on fire protection (1988, with amendments) and eight by-laws

2.9. Law on citizenship of the Republic of Serbia (2004, with amendments) and three by-laws

2.10. Law on permanent and temporary residence of citizens (1971, with amendments) and one by-law

2.11. Law on introduction of unique identity number of a citizen (1976) and two by-laws; Law on unique identity number of a citizen (1978, with amendments) and one by-law

2.12. Law on identity cards (2006) and two by-laws

2.13. Law on travel documents (2007) and two by-laws

As can be seen from the above list, 14 out of the 19 laws date from before the adoption of the Constitution, meaning that they need to be harmonised with the Constitution. Some of the laws date back to the Socialist Federal Republic of Yugoslavia or the Federal Republic of Yugoslavia (when competencies were divided between republic and federation levels). These laws are often used to highlight the failure to create a suitable framework for efficient police performance or successful fulfilment of security interests (especially in areas such as road traffic safety, public peace and order, firearms and ammunition, as well as fire protection). There are issues that are not yet encompassed by this group of laws, such as the private security sector.

(3) Regulations on specific police powers, tasks and methods of work

3.1. Specific police powers, tasks and methods of work are covered by the *Criminal procedure code* (2001 and 2006) and the *Law on misdemeanours* (1989 and 2005). The former regulates the powers of the police in pre-investigative

procedures, such as information gathering, arrest and detention of suspects, establishing individuals' identity, securing evidence, temporary seizure of objects, searches of property and individuals, suspect interviews and data gathering through special investigative measures (e.g. wiretapping), as well as obligations of the police towards the prosecution and judicial authorities. The *Law on misdemeanours* regulates the powers of the police related to the filing of misdemeanour charges and evidence gathering. It covers initial misdemeanour proceedings and the issuing the mandatory fines, as well as the obligations of the police towards the misdemeanour procedure authorities.

3.2. There are a number of special laws which regulate police powers, tasks and methods of work, including how the police is organised to conduct special tasks, such as organised crime (the *Law on organisation and competencies of public authorities in the suppression of organised crime*, 2002, with amendments), cyber-crime (the *Law on organisation and competencies of public authorities for fight against cyber-crime*, 2005) and war crimes (the *Law on organisation and competencies of public authorities in war crimes procedures*, 2003, with amendments). Furthermore, the *Law on the protection programme for participants in criminal proceedings* (2005) and the *Law on seizure of proceeds of crime* (2008) establish and define the roles of special organisational units within the Ministry of Interior.

3.3. The Ministry of Interior (the police) has specific duties when implementing ratified international agreements which refer to cross-border organised crime and terrorism. The Ministry is the focal point for many established forms of international cooperation such as visas, border control, asylum and migration, prevention and control of illegal migration, suppression of money laundering and financing of terrorism, suppression of illicit drugs, as well as the fight against organised crime and terrorism. Some of these are not yet regulated by national legislation, which is one of the preconditions for Serbia's membership of the 'white' Schengen List.

(4) Regulations on external control of the police and conditions for transparency

4.1. External control of the police is covered by the *Rules of procedure of parliament*, the *Law on government and the rules of procedure of the government*, as well as the *Law on the protection of citizens* (2005, with amendments). Similarly, control of police work is covered by procedure laws which enable the prosecution and the courts to conduct the *ex ante* control. There are also regulations that allow for legal means and procedures within *ex post* control of police work (appeals procedures, court protection and compensation of damages before the regular courts, as well as the constitutional appeal before the Constitutional Court)

4.2. The regulations that ensure conditions for transparency in the police are the same as those which refer to the entire public administration and other public authority bodies; the *Law on free access to information of public importance* (2004, with amendments), the *Law on prevention of conflict of interest in the discharge of public office* (2004), the *Law on protection of personal data* (2008), the *Law on the supreme audit institution*, and the *Law on public procurement* (the latter governs the extent to which police procurements are not exempt from general public procurement regimes).

III. Regulations covering the policing of other areas, such as services

Reform of police legislation is objectively more important than reform of the police itself. The application of laws (and in some cases by-laws) which determine police competences and the regime of policing, extend to other parts of the state apparatus. In such cases, by improving the quality of police legislation there will be wider impact on the legal framework for other state bodies and services to which the legal regime of policing affairs applies. This relates to the following bodies and services:

1.1. The *Law on the Armed Forces of Serbia* (2007) prescribes that authorised Military Police personnel have commitments and competencies stipulated by the law regulating criminal procedures towards employees of the Ministry of Defence and members of the Armed Forces of Serbia, and within the criminal investigation activities, the law regulating police work, as well as the regulations based on that law.

1.2. The *Law on security intelligence agency* (2002) stipulates the manner in which regulations relating to competencies, as well as regulations on rights, responsibilities and obligations of police officers are applied to members of the agency.

1.3. The *Law on intelligence services of the FRY* (2002), which applies to two military services (the Military Security Agency and the Military Intelligence Agency), also stipulates that in pre-investigative proceedings these services have police competences (those of the internal affairs bodies).

1.4. The *Customs Law* prescribes that authorised customs officers have the right to carry firearms and ammunition, as well as the right to use arms under the same conditions and in the same manner prescribed for authorised police officers. The *Law on tax procedure and tax administration* (2002, with amendments) prescribes that the Tax Police has authority to act as an internal affairs body in pre-investigative proceedings in order to tackle tax-related crime and tax offenders.

1.5. Although judicial and prison administration competencies are regulated by separate laws (the *Law on organisation of courts* and the *Law on execution of penitentiary sanctions*), regulations that relate to means of coercion are similar to those used by the police.

IV. Challenges

Changes in the legal framework of the police have been implemented only partly, and the greatest progress has been made with the new *Law on police*, as well as with the the *Law on protection of state borders*, *Law on foreigners*, *Law on asylum* and *Law on travel documents*. However, the legal framework of the police reform needs further harmonisation. This should be based on two fundamental conditions. First, harmonisation with the Constitution and ratified international agreements (formal and legal harmonisation). Second, harmonisation with wider aims of police reform, obligations stemming from the Stabilisation and Association Agreement (Articles 80 – 87), as well as obligations undertaken within the framework of regional cooperation (material harmonisation). Both conditions could be fulfilled simultaneously. A plan should be developed by the Ministry of Interior and adopted by the government. The Ministry of Interior should receive expert assistance in preparation of new legislation. Particular attention should be given to moving some administrative tasks from the Ministry of Interior to other ministries or administrative bodies.

3. Security-Intelligence Services in the Republic of Serbia

Bogoljub Milosavljević and Predrag Petrović

The Security-intelligence services (hence the intelligence services) are among the most important executive actors in any national security systems. In this chapter the term intelligence services denotes only specialised civilian and military organisations with security-intelligence functions, established within the state apparatus and operating under government control. Intelligence services should, first of all, provide state bodies with timely, relevant and precise information. They should protect the constitutional order and national interests against penetration by foreign intelligence services and activities of organised criminal and terrorist groups. They are authorised to collect information from public sources, and can use secret methods, techniques and means.[285]

There are three organisations in Serbia with these responsibilities; the Security-Information Agency (SIA), the Military Security Agency (MSA) and the Military Intelligence Agency (MoI). The SIA is directly subordinated to the government and has the status of a special republic organisation, while both the MSA and MoI are organisational units (administrative bodies) within the Ministry of Defence (MoD) subordinated to the defence minister, and thus also to the government.

The functions of the intelligence services are specified by positive legal regulations[286] and include the usual intelligence activities: 1. The collection and analysis of data relevant for national security, defence and protection of eco-

[285] Reconciling the secrecy needs of intelligence services with the fundamental tenets of democracy is an important question. In order words, how can this secrecy be reconciled with transparency of state institutions. Bogoljub Milosavljević has thus labelled intelligence services as "social dynamite in democratic society." See 'Reforme obaveštajno-bezbednosnih službi: slučaj Srbije," [Reforms of Security-Intelligence Services: The Case of Serbia] in *Prva škola reforme sektora bezbednosti: zbornik predavanja,* ed. Pavle Janković. (Beograd: Centar za proučavanje odbrane i bezbednosti, G17 Institut, 2003), 95.

[286] See: *Zakon o osnovama uređenja službi bezbednosti Republike Srbije* [Law on the basic organisation of the security and intelligence system of the RS], Službeni glasnik RS, No. 116/07; *Zakon o Bezbednosno-informativnoj agenciji* [Law on the Security Intelligence Agency], Službeni glasnik RS, No. 42/02; *Zakon o službama bezbednosti Savezne Republike Jugoslavije* [Law on the security services of the FRY], Službeni list SRJ, No. 37/02 and Službeni list SCG, No. 17/04.

nomic, foreign policy and other interests of the country, and: 2. Submission of this information to political decision-makers, law-enforcement and other competent state bodies. In addition, the SIA and MSA also have specific security tasks aimed at uncovering, preventing and documenting threats to the constitutional order, national security and democratic values in society. This primarily refers to terrorist activities and armed rebellions, forms of organised crime, criminal offences against the constitutional order and state security, crimes against humanity and other goods protected by international law and crimes against the Serbian Armed Forces. The SIA and MSA also engage in counter-intelligence to uncover (and prevent) the activities of foreign intelligence services and protect domestic institutions. None of the intelligence services has legal powers to plan or carry out secret operations abroad, for the purpose of achieving Serbia's foreign-policy objectives or protecting the country's national interests. Likewise, they have no control over domestic political and ideological dissent, although under the communist regime and during the 1990s the intelligence services had the hallmarks of a *political police.*

There are strong links between the intelligence services and other executive actors, especially the military and the police. Close and efficient cooperation is a precondition for the successful functioning of security-intelligence systems in all countries. The security competences of intelligence service may overlap with those of the police and military security bodies. There have been several cases over the past few years of conflicts of jurisdiction between the intelligence services and the police. In these cases, the intelligence services assumed a leading role, or rather, succeeded in imposing their objectives over and above those of routine police-security operations. Since the police operations are undertaken for the purpose of law enforcement, these cases suggest that law enforcement was subordinated to higher national security interests which were unknown to the public. This damages (already weak) public trust in the rule of law and blurs the lines of responsibility of security sector actors.

In addition, until mid-2006, the military and civilian intelligence services were seemingly in competition with one another in the fulfilment of their roles. This was due to the absence of a state mechanism to coordinate operations, as well as the fact that military intelligence services acted as bodies of the FRY/SaM, in contrast to civilian services organised at the republican level.

Intelligence services in Serbia originate from similar institutions created immediately after the end of the Second World War in socialist Yugoslavia (the SFRY, or 'the second Yugoslavia', 1945-1992). Their organisational and functional continuity was preserved during the existence of the joint state of Serbia and Montenegro (FRY and the State Union of Serbia and Montenegro, or the so-called third Yugoslavia, 1992-2006). This project analyses whether this continuity has been retained and the position and role of Serbia's intelligence services today. In this respect, we note the general public impression in Serbia that against the background of its historical position and role within Yugoslav

society as a whole, the intelligence services still represent an extremely powerful and influential actor in the entire security sector, but one which is the least controlled.[287] Namely, the decades-long survival of authoritarian regimes on Yugoslav territory resulted in the submission of the state and national interests in favour of those of the ruling group. Therefore, the main task of the intelligence services was to protect the interests of those in power. They persecuted political dissenters and critics of the regime, functioning primarily as a political police. The intelligence services retained that role until the democratic changes in October 2000. Text box 2 describes the legacy that confronted reformers of the security services, as well as accomplished results. It also proposes measures for the further improvement.

Origins of the Serbian Security Services

The origins of the present day intelligence services in Serbia go back to the Kingdom of Serbia and its **Department for Confidential Police Work** (secret police), which was formed on 17. October 1899. That date is celebrated as SIA's day since 2001. The Kingdom of Yugoslavia had a **Military Intelligence Service, Counter-Intelligence Service** and a **Cipher Department** within the Army and Naval Ministry, along with a **Directorate for National Security** within the Ministry of the Interior. The Directorate had a political department (charged with suppressing the activities of the regime's political opponents), a counter-intelligence department and a special security department (for registering individuals important for national security).

In 1942 the Partisans formed the Second (Intelligence) Section at the Supreme Headquarters of the People's Liberation Army, with 'intelligence commissioners' as staff within operational units. The first institutions with the markings of an intelligence-security service was established on 13 May 1944 under the name of the **Office for Protection of People (OZNA).** This day was celebrated as the 'Day of Security', (day of the security services and police) until 2001. The **The State Security Department (UDBA)** was formed in 1946 from parts of the OZNA, the Radio Centre and the Cipher Group of the Ministry of National Defence. The State Security Administration was a federal institution, with appropriate bodies in republic ministries (secretariats) of internal affairs, directing the work of district departments. After the Brioni Party Plenum in 1966, the UDBA was transformed into the **State Security Service (SDB),** a federal institution attached to the Federal Secretariat for Internal Affairs, which coordinated the work of security services within republic secretariats for internal af-

[287] This moment kept resurfacing after 2000, whenever a new government was formed, especially in the form of a protracted 'bargaining' of coalition partners about the person at the head the Security-Intelligence Agency.

fairs.[288] Independence of the republic services from the federal SDB was finally accomplished by the SFRY Constitution adopted in 1974. The federal SDB ceased to exist in early 1992.

The Military Intelligence Service emerged out of the Second (intelligence) section of the Supreme Headquarters of the People's Liberation Army and functioned under the name of the Second Administration of the Yugoslav Army General Staff, and later the Yugoslav People's Army. For a time, it was called Intelligence Administration. In 2002 it was first renamed the Military Intelligence Service by the *Law on the FRY Security Services*, and in 2003 it became the Military Intelligence Agency (MoI).

The second military security service – the MSA - was formed in 1946 from parts of OZNA. It was known as the Counter-Intelligence Service of the Yugoslav Army. In 1955 it was renamed the Security Administration, known as the XII Administration of the Yugoslav Army General Staff. Following the adoption of the *Law on the FRY Security Services* (2002) it was reorganised and renamed initially as the Military Security Service and then in November 2003, as the Military Security Agency.

Outline of the inherited situation

The political regime determined the role and tasks of the intelligence services in the SFRY. The undisputed rule of the Communist party ensured that the main interest of the national security system was the protection of party's monopoly of power. As an important prop for the regime, the intelligence services had a privileged status. Individuals loyal to the party elite held leading positions both in the intelligence services and in a series of large, mostly trade, enterprises set up to provide substantial funds for the financing of these services' operations. They were accountable only to the ruling elite. As a secret police, they protected the regime from its dissenting citizens. Although a complete study of their operations has not yet been carried out, it is assumed that they compiled about 400,000 files of political dissenters in Serbia alone.[289] They also used violence against their own citizens and are suspected of murdering 200 emigrants.[290]

In common with similar authoritarian regimes, the Intelligence services had

[288] For more on the history of security-intelligence services in Serbia see the SIA web page, 'History – Background of Inteligence-Security Systems in the Territory of Serbia', http://www.bia.gov.rs/istorijat.htm.

[289] Quoted in, Bogoljub Milosavljević, 'Reforms of Security-Intelligence Services: The Case of Serbia', 97.

[290] Ozren Žunec, 'Democratic Control and oversight and Control Over Intelligence and Security Agencies', in *Defence and Security Sector Governance and Reform in South East Europe*: *Insights and Perspectives*, eds. J. A. Trapins and Ph. H. Fluri. (Geneva/Belgrade: DCAF, 2003), 382.

wide and insufficiently defined lawful powers. No legal regulations referring to civilian or military service were passed between 1945 and July 2002. Following the death of President Tito, and under pressure of the liberal wing of the party, the *Law on the basis of the State Security System* was adopted in 1984. However, it "addressed only commonplace (unimportant) issues, leaving the executive authorities and leaders of powerful services to pass their internal secret instructions regulating the entire habitual legal matter (establishment, functions, authorities, organisation, operation and accountability of services)."[291] Throughout this period the most important regulations governing the operation of these services were the 'Work rules of the State Security Service', a classified document, passed by the minister (federal secretary) for internal affairs.[292]

The disintegration of the SFRY brought few changes, except that the federal state security service ceased to exist in 1992, and was formally disbanded in July 2002. Both Serbia and Montenegro had state security departments within their interior ministries. The newly formed state of the FRY took over two military services from the SFRY (VOS and KOS) and two smaller services attached to the Ministry for Foreign Affairs (SID and SB). The *Law on the basis of the security system* remained in force until 2002. Although it was the only legal document, it had no real function in the legal system. The competences, seat and scope of work, as well as methods of RDB operations were still defined by secret acts, which is a paradox, since "a legal state cannot have secret regulations, or rather regulations of that kind are not part of the legal order of the state and cannot be binding on citizens (…) and sanctions for violations of these regulations cannot be pronounced by the courts of law, but only by disciplinary bodies of their makers."[293] Moreover, the use of special investigative techniques and methods infringing on the constitutionally-guaranteed rights and freedoms of citizens (e.g. wiretapping and opening of letters) did not require court approval. The same applies to military intelligence services.[294] This is why the security services in the newly created FRY continued to operate without an efficient legal

[291] Milosavljević, 'Reforms of Security-Intelligence Services: The case of Serbia', 98.

[292] The last SFRY rules of that kind were adopted in 1990. As usual, they were published in a secret (confidential) official gazette (Sl. list SFRJ – Poverljivo glasilo, No. 18/90). The fact that it was unavailable to citizens denied legality to all acts published therein. For more, see Bogoljub Milosavljević, 'Ovlašćenja policije i drugih državnih organa za tajno prikupljanje podataka: domaći propisi i evropski standardi', [Secret data collection powers of the police and other state bodies: Domestic regulations and European standards] in *Demokratski nadzor nad primenom posebnih ovlašćenja,* ur. Miroslav Hadžić i Predrag Petrović. (Beograd: Centar za civilno-vojne odnose, 2008), 69–70.)

[293] Bogoljub Milosavljević i Aleskandar Resanović, *Državno nasilje nad građanima u Jugoslaviji*[State Violence over Citizens in Yugoslavia] (Beograd: Centar za antiratnu akciju, 2001), 70.

[294] Zvonko Horvat, 'Reforma vojnih službi bezbednosti', [Reform of Military Intelligence Services] in *Zbornik predavanja sa IX Škole reforme sektora bezbednosti*, ed. Pavle Janković. (Beograd: ISAC Fund, 2007).

framework and democratic civilian control, even though the 1992 constitution proclaimed a democratic multi-party parliamentary republic, based on the principles of the rule of law and observance of citizens' rights and freedoms,.

The violent disintegration of the SFRY, together with the Milošević regime ('electoral authoritarianism'[295]), contributed to the criminalisation and militarisation of the society and state. In particular, Serbia's role in the war in Bosnia and Herzegovina prompted the UN Security Council to impose sanctions on the FRY. These circumstances allowed crime to become a functional part of state and society, as well as in neighbouring Romania and Bulgaria.[296] A dense network of illegal supply channels formed in response to the sanctions, turning the FRY into a grey (and black) economy (share of GDP as high as 50 per cent in 1994).[297] Thus, a 'grey state' emerged to perform all the functions which the official state could not. The intelligence services were an important actor in the organisation of these networks and operations, primarily those related to energy supplies.[298]

The war also contributed to the militarisation of intelligence services. Namely, in 1996 a Special Operations Unit (SOU) was formed, as part of the Serbian Interior Ministry's RDB until January 2002 (and then as a special Interior Ministry unit until its disbanding on 25 March 1993). The Unit's members were mostly veterans of different paramilitary forces who fought on the Serbian side in Croatia and Bosnia and Herzegovina. The role this unit had in the war, and therefore also the involvement of the RDB in the wars on the territories of the former Yugoslavia, has not been clarified to date. However, there is no doubt that through paramilitary units, the intelligence services acted secretly in the Yugoslav wars. Their involvement did not present a problem "since they acquired the power and know-how for violent 'crisis management' already in the second Yugoslavia, using a strategy of special war, focused on the so-called internal enemy, devised specifically for that purpose".[299] The Milošević regime used both paramilitary and para-police units, to spread its power in society and reinforce the authoritarian base of its rule, facilitated "by the interest-based alli-

[295] Dušan Pavlović, 'Srbija za vreme i nakon Miloševića', [Serbia during and after Milošević], *Sociološki pregled*, Vol. XXXIX, No. 2, (2005): 183–196.

[296] For more, see: Jens Stilhoff Sorensen, 'War as social transformation: Wealth, class, power and an illiberal economy in Serbia', *Civil Wars,* Volume 6, Issue 4 (2003): 55–82; Misha Glenny, 'Kriminalci kao ključni ekonomski igrači' [Criminals as key economic players], *B92,* http://www.b92.net/info/intervju/index.php?nav_id=304428 (accessed on 23 January 2009).

[297] For the difference between grey and black economy and the role they had in Serbia during 1990s, see: Jens Stilhoff Sorensen, *o. c.*

[298] The 660 kg of heroin uncovered in March 2001 in a safe leased by the RDB from the Commercial Bank confirms the criminal legacy of security services.

[299] Miroslav Hadžić, 'Moderatori nasilja – skrivena strana yu-rata', [Moderators of Violence – The hidden side of the Yu-War] in *Nasilno rasturanje Jugoslavije: uzroci, dinamika i posledice*, ed. Miroslav Hadžić. (Beograd: Centar za civilno-vojne odnose, 2006), 199.

ance of political, military-police and criminal elites, cemented during the war."[300]

A particularly difficult aspect of the Serbian security services' (primarily the Serbian RDB's) legacy, was their open support for the Milošević regime during the 1990s. They defended a regime that had lost substantial public support, especially after the mid-1990s. The RDB and the police persecuted opposition leaders, suppressed peaceful demonstrations and beat hundreds of citizens who took to the streets of Belgrade and other Serbian towns.

The consequences of the SOU's transformation into an autocratic tool of the Milošević regime had still more drastic consequences. Its members, acting independently or together with organised criminal gangs committed many crimes.[301] The Unit's commander, Milorad 'Legija' Ulemek, some of its officers and members, and even the then RDB head Radomir Marković, were variously sentenced by the courts for several political assassinations. The were found quilty of the abduction and murder of the former Serbian Presidency head Ivan Stambolić in August 2000, the murder of four high officials of the oppositional Serbian Renewal Movement (SRM) on the Ibar highway in October 1999[302] and the attempted assassination of the SRM leader Vuk Drašković in Budva in June 2000. The trial for the murder of Slavko Ćuruvija in April 1999, owner of the paper *Nedeljni Telegraf,* is still ongoing.[303] Despite suspicions that Milošević ordered these crimes, it has not been proven in court. Still, the sentences show how the political leadership of the state transformed the security services from protectors of the national interest and promoters of the security of society and the state, into tools to deal with political dissenters.

Democratic changes and politicisation of reforms

After the changes of October 2000, Serbia made initial steps away from authoritarianism and patriarchal political culture. It also started reforms of the quasi-market economic system (essentially a command economy) and started

[300] Mirolsav Hadžić, „Različitost prividno istog," [Difference of the apparently same] *Centar za civilno-vojne odnose*, http://www.ccmr-bg.org/analize/rec/rec59.htm (accessed on Jan. 27, 2009).

[301] For more information on the creation of JSO, as well as on ties between the leaders and individual members of this unit with organised crime and their involvement in the organisation and perpetration of a number of crimes, see: Filip Švarm, 'Jedinica' [The Unit], *B92*, http://www.b92.net/specijal/jedinica/ (accessed on Dec. 12, 2008).

[302] Vuk Drašković, SOU leader said the sentencing for the Ibar highway crime was historic, as the first prison sentence for a head of a secret police since 1945. 'Maksimalne kazne za Ibarsku' [Maximum sentences for Ibar highway], *B92,* http://www.b92.net/info/vesti/index.php?yyyy=2008&mm=06&dd=19&nav_id=304459 (accessed on Dec. 14, 2008)

[303] The degree of violence Slobodan Milošević used against his own citizens, critics and opponents of his rule grew in parallel with the loss of his popular political support.

the transition towards liberal-democracy. One of the urgent tasks of the new democratic authorities was reform of the security sector, and in particular of the intelligence services. They were rightly considered by victorious DOS coalition and the democratic public to be an open threat to the democratisation of society. This was seen as a source of fear and mistrust in the security sector by the majority of citizens.

This is why new authorities proclaimed reform of state institutions in the *Contract with the people* (DOS election platform). This reform promised to give competent parliamentary committees access to all secret police files within a period of 100 days and to form an independent expert commission to examine and publish all relevant documents, audio and video records related to Serbia and Yugoslavia's domestic and foreign policy in the 1987-2000 period, kept secret by the former authorities. Other extremely important tasks were to define national interests, to prepare and adopt key documents in the security sphere (a national security strategy, defence strategy and doctrine), and to adopt new laws governing the operation and organisation of the security-intelligence system and lustration.

However, the initial political will for reform soon abated. A series of factors delayed the implementation of serious reform measures for a year and a half. Security sector reforms typically faced resistance from within the security structures themselves, political forces from the former regime, and from sections of the public who considered national security to be an unquestionable category of power.

On the one hand, after the October changes, the DOS coalition was in a position to start reforms in the military intelligence services (at the FRY level). To do this it needed the support of the Montenegrin political elite. However, the government in Montenegro was more concerned with securing independence for Montenegro than with improving the FRY institutions. A transitory government in Serbia operated until the parliamentary elections of 23 December that year and the constitution of the national parliament and government until in January of the following year. At that time the government did not have capacity for reform. On the basis of an agreement with FRY President Koštunica, Milošević-appointee Radomir Marković remained at the head of the RDB for the next four months, which gave RDB leaders time to destroy part of the service's files, and consolidate their positions with the new political decision-makers in Serbia. The DOS coalition, on its part, failed to make use of that time to prepare appropriate personnel and plans for the reform of intelligence services, or for that matter for the reform of the military and the police. Instead, the parties of the DOS coalition manifested increasing disagreed on the course and pace of reforms in society and state, and generated inter-party scandals involving the intelligence services.

At the same time the unfavourable security situation in the Ground Safety Zone towards Kosovo and in southern Serbia weakened the initial resolve

for fast and thorough reforms of intelligence services. The grave situation was used by the services, other security forces and the highest authorities to argue against any measures for substantial security sector reform. The same argument was employed to postpone the opening of files for political or ideological motives (ostensibly not to endanger the network of collaborators and thus affect their efficiency), and to justify resistance to the lustration of members of the service who violated human rights. Another factor which, although of different nature, had similar effects on the postponement and slow down of intelligence services reforms, was the legacy of the war and the resulting deep divisions in Serbian society on the issue of cooperation with the Hague tribunal and extradition of thosee accused for war crimes.

The following paragraphs cite examples of the effects of certain factors on the politicisation and delay in intelligence services reform. All these events highlight that the absence of a political consensus among the key political actors was the main obstacle for reform. In this context it is possible to understand why, despite Goran Petrović's (first RDB head appointed by the Serbian Government on 27 January 2001) statement that the situation in the RDB was "in the mildest terms disastrous"[304] between 2001 and the first half of 2002, none of the badly needed reforms (except minor personnel changes) was enacted.

Inadequate attempts to open services' secret files are a good illustration of the inconsistency of reform and the Serbian government's unreadiness. Under public pressure to finally make good on its pre-election promises, the government passed an *Ordinance declassifying Serbian citizens' files kept by the State Security Service*.[305] Soon after the government changed the title of this document to *Ordinance allowing insight into certain files on Serbian citizens kept by the State Security Service*.[306] The ordinance obliged the RDB to identify only citizens with files categorised as 'internal enemies'. Therefore, this list does not include others classified as 'cominformists', 'civil right wing', 'liberals', 'anarcho-liberals', 'opposition leaders' and 'supporters of change'. As such the "Ordinance gave the citizens incomplete insight into the SDB files."[307] The opening of secret services' files should have marked the end of the non-democratic era and the reason for the partial declassification of files demonstrates that "this period (1945-2000)

[304] 'Interview with Goran Petrović,' *Nedeljni telegraf*, Aug. 1, 2001).

[305] *Uredba o stavljanju na uvid određenih dosijea vođenih o građanima Republike Srbije u službi državne bezbednosti*, Službeni glasnik RS, No. 30/01.

[306] *Uredba o stavljanju na uvid određenih dosijea vođenih o građanima Republike Srbije u službi državne bezbednosti*, Službeni glasnik RS, No. 31/01.

[307] Jovica Trkulja, 'Pravno savladavanje autoritarne prošlosti', [Legal overcoming of authoritarian past] *Hereticus,* 2003-1, http://www.hereticus.org/arhiva/2003-1/pravno-savladavanje-autoritarne-proslosti.html/2.

was neither dictatorial nor undemocratic for many within the DOS."[308] The Ordinance also contravened the Constitution, and was, in 2003, proclaimed unconstitutional by the Constitutional Court.

Similar inconsistencies manifested themselves in late 2003, with the adoption of the long-awaited *Law on the responsibility for violation of human rights* (lustration).[309] Although Serbia is the only country in the region that has a law regulating this matter, the lustration has never been carried out, in the absence of the required parliamentary majority to select members of the lustration commission and provide other conditions for its work. Implementation of the law also required insight into intelligence services' files.

In addition members of the intelligences services were implicated in several affairs that have far graver consequences in terms of the politicisation of reform. For instance the 'Gavrilović affair' (the assassination of a high-ranking RDB member Momir Gavrilović), the 'Perišić affair' (the arrest of the former chief of General Staff, then vice-president of the Serbian government Momčilo Perišić) and the 'Pavković affair' (an attempt to use Special Yugoslav Armed Forces Units for a raid on the Serbian Government Communications Bureau in June 2001, allegedly for wiretapping). In all these affairs the two key DOS coalition parties, the Democratic Party (DS) and Democratic Party of Serbia (DSS), accused each other of abusing the intelligence services for their narrow party interests.

The third example was a rebellion by the Special Operations Unit, whose members, armed and in full gear, blocked the traffic communications in Kula and the highway near the 'Sava' Conference Centre in Belgrade, demanding the replacement of police minister Dušan Mihajlović and the RDB leaders. They also publicly demonstrated against the arrest and extradition of the ICTY indictees. In a whole series of inter-party conflicts within the DOS, the FRY President Koštunica defined that event as no more than a "protest of workers"; people who instead of wearing workers' overalls wore uniforms and carried arms.

However, the situation was very serious. The rebels managed to force the removal of the RDB head Goran Petrović and his deputy Zoran Mijatović. In response to the situation the government established a *State Security Council*. Its president was the Serbian Prime Minister Zoran Djindjić,[310] and the Council was in charge of monitoring RDB operations pending the establishment of par-

[308] 'Uvid u dosijea SDB regulisati zakonom', [Insight into SDB files requires legal regulation] *Danas,* Jul 5-6, 2003. For more on the need to open the secret files and the related dilemmas and problems, see Boguljub Milosavljević and Đorđe Pavićević, *Tajni dosijei: otvaranje dosijea službi državne bezbednosti* [Secret Files: Opening of State Security Service Files] (Beograd: Centar za antiratnu akciju, 2001).

[309] *Zakon o odgovornosti za kršenje ljudskih prava,* Službeni glasnik RS, No. 58/03 and 61/03.

[310] *Defense & Security*, Issue No. 043, January 24, 2002.

liamentary control.[311] The government, furthermore, verified an act[312] separating the SOU from the RDB under which the SOU became a unit of the interior ministry. The government thus sought to establish control over the SOU. At the same time, an attempt by President Koštunica to establish a National Security Council at the federal level failed in the face of opposition from members within Serbian government who considered the president unauthorised to establish a such body.[313]

Despite the highly politicised reforms and the sharp political conflict between the two ruling political parties, two laws were adopted in July 2002, one of which regulated the operations of civilian and military services on the federal level, while the other transformed the Serbian RDB into a Security Intelligence Agency. However, the assassination of Serbian Prime Minister Zoran Djindjić in March 2003 showed that organisational changes and the creation of a legal framework were insufficient. The assassination was carried out by a group consisting of SOU members, the organised criminal group known as the 'Zemun clan', and a number of members from the SIA. The first priority was to remove all involved in serious violations of human rights or linked with criminal groups from the service; to replace the cadre and undertake a series of other reforms that will enable the services to function in a way suiting a democratic society. In a word, it was clear that proper reforms had been lacking and that a genuine change was needed.

Almost two years after the democratic change, in early June 2002, the *Law on the FRY Security Services* was adopted. The speed in preparing this legislation was due to the 'Perišić affair' which had revealed the absence of civilian control of military intelligence services and the armed forces. The law regulated the positions, functions, authorities and control of intelligence services at the federal level. The Military Security Service and Military Intelligence Service,[314] as well as the Security Service and Service for Research and Documentation were attached to the Foreign Ministry. For the first time, the military intelligence services were defined by one law and bound to obtain court approval for the use of special procedures and methods temporarily limiting constitutional and legally guaranteed human rights and freedoms. In addition, the military police was separated from the military intelligence services, with the "result […] that the service that uses secret methods for the collection of data does not have the military

[311] This body was dissolved after the formation of Vojislav Koštunica's government in spring 2004.

[312] Pravilnik o unutrašnjoj organizaciji i sistematizaciji radnih mesta u Jedinici za specijalne operacije Ministarstva unutrašnjih poslova [Rules on internal Organisation and job classification in the Special Operations Unit of the Interior Ministry] (DT 01 No. 255/2002, 15. 1. 2002).

[313] Dejan Anastasijević, „Savet za avet," [Advice for a ghost] *Vreme*, No. 758, Jan. 19, 2006.

[314] These services were subsequently renamed MSA and MoI.

police as its executive body, which is one of the democratic standards."[315]

This law established a mechanism for democratic civilian control. Military services were subordinated to the defence minister and the federal government – an important step leading towards the institution of civilian control over military services previously subordinated to the chief of the General Staff or unit commanders on lower levels. The law anticipated parliamentary mechanisms for monitoring the services. A parliamentary Commission for the Control of the FRY Intelligence Services was set up, but this did not function due to numerous difficulties in the work of the federal parliament. The law regulated the position, functions, powers, control and control and oversight of the intelligence services in a clear, meaningful and comprehensive manner. The committee, however, was only critical of the decision to enable the MSA to retain police powers. Following the disintegration of the State Union of Serbia and Montenegro, the law was incorporated into the legal system of Serbia and still forms the crucial legal framework for the operation of military intelligence services.

The above-mentioned law was, merely two weeks later, followed by the adoption of the *Law on the Security Intelligence Agency* in the Serbian parliament. This legislation separates the RDB from the Ministry of Interior and transforms it into a Security Intelligence Agency (SIA), directly subordinated to the Serbian government. In terms of its functions, this is a 'mixed type' service, since it simultaneously has intelligence and counter-intelligence tasks, and functions as a security service (for the protection of the constitutionally established order). However, although it welcomed the long-awaited law, the public sharply criticised both the law as a whole and some of its provisions. The following are only the most important examples.

In the first place, the law has only 28 articles[316] that incompletely and imprecisely regulate the subject matter. The intelligence and counter-intelligence components have not been clearly divided, and the same goes for the security service functions.[317] Furthermore, in contrast to the *Law on the FRY Security Services*, this legal act does not precisely list and define the methods of the agency's work. It says that, acting within its jurisdiction, the agency applies "*appropriate* operational methods, measures and acts and uses *appropriate* operational-technical means",[318] but without specifying the methods, measures, acts and means. In consequence, the control of procedures and methods for a temporary suspension of certain human rights and freedoms guaranteed by the constitu-

[315] Quoted in Zvonko Horvat, "Reform of Military Intelligence Services", 128.

[316] By comparison, the *Law on the Security Intelligence System of the Republic of Croatia* (2006) has 126 articles which comprehensively and in detail regulate all issues related to the operations of security services.

[317] Mladen Bajagić, 'Reforma službi bezbednosti', [Reform of Security Services] u *Druga škola reforme sektora bezbednosti: zbornik predavanja*, ur. Pavle. Janković. (Beograd: CEPROB, G17 Institut, 2003), 215.

[318] *Zakon o Bezbednosnoj-informativnoj* agenciji, čl. 9, Službeni glasnik RS, br. 42/02.

tion and law (art. 13) has not been sufficiently elaborated.[319] Another provision in dispute states that agency members with (fairly broadly defined) specific jobs have traditional police powers.

Finally, control of the SIA is not substantially defined and is reduced to the agency's obligation to submit semi-annual reports to parliament and government, and to observe the government's general views and guidelines; "a standard obligation of all republic administrative bodies and organisations."[320]

An overview of these two laws (adopted almost at the same time) inevitably leads to the question why one meets the essential standards of democratic control over the secret services, and the other does not. One could assume that the decisive factor was political. Namely, that members of the ruling elite who feared becoming the target of the security services decided to adopt modern legislation (*the Law on the FRY Security Services*) regulating the work of security services in the military and the foreign ministry. However, the same political elite also adopted the law on the SIA, which does not meet modern standards of regulation of the security intelligence services. This could be due to the fact that the political elite controlled the operations of the civilian intelligence service at the republic level and did not wish to legally diminish the power of that service, thereby weakening its own grip on power.

Nevertheless, the above-mentioned laws represent some progress. The security services, although not thoroughly reformed, have, for the first time been placed in a legal framework with defined tasks and powers. Moreover, the procedure for the use of their special authorities for the collection of data is subject to the control of competent courts, and parliament is given the possibility of monitoring their work. On the other hand, the laws that are still in force need to be adjusted to meet the highest standards. Furthermore, a National Security Strategy which would define the main challenges, risks and security threats to Serbia and the manner of the relevant security intelligence system's response, is still missing.

With the dissolution of the union with Montenegro and the new *Constitution of the Republic of Serbia,* it was expected that legislation would follow to comprehensively regulate the entire security-intelligence system. Instead, the *Law on the basic organisation of the security and intelligence system of the RS*, hastily adopted towards the end of 2007, addressed only the control and oversight and coordination of intelligence services. Their tasks and authorities, as well as other issues essential for the operation of intelligence services will be regulated subsequently by separate laws on civilian and military services. The adoption of these laws has been anticipated but without any specific deadline.

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[319] For more information see Bogoljub Milosavljević, 'Reforms of Security Intelligence Services: The Case of Serbia', 102.

[320] Milosavljević, 103.

In addition to the National Security Council, an important novelty introduced by this law is a broader and more precise definition of the supervisory role given to the competent parliamentary defence and security committee. The committee, among other things, has the power to monitor the legality of use of special procedures and measures for the secret collection of data and direct control over the security services. Furthermore, service directors are obliged to allow committee members access to the service premises, to allow them insight into their documentation, to provide them with the data and information on their work, and to respond to their questions.

PACE AND ACHIEVEMENTS OF REFORM

REPRESENTATIVENESS

Representativeness in the intelligence services is, on the normative level, provided by constitutional and legal provisions that guarantee the equality of all citizens, prohibit discrimination and envisage measures for the attainment of full equality (so-called positive discrimination). Thus article 15 of the 2006 Serbian Constitution stipulates that the state guarantees the equality of men and women and develops a policy of equal opportunities, while article 21 proclaims the principle of equality of all before the Constitution and law and prohibits direct or indirect discrimination on any grounds, and especially on the basis of race, gender, national affiliation, social origins, birth, religion, political or other opinion, property status, culture, language, age, and mental or physical disability. Article 53 safeguards citizens' rights to assume public services and offices under equal conditions, and article 60 affirms citizens' rights to work, their free choice of occupation and availability of all work places under equal conditions, as well as other labour rights, including a special protection of women, the young and the disabled. A special section of the Constitution (articles 75-81) guarantees the rights of national minority members and stipulates that specific regulations and provisional measures undertaken by Serbia in order to achieve full equality of national minority and majority members do not constitute discrimination, and that any employment in the state bodies and services must take into account the ethnic composition of the population and appropriate representation of national minority members.

The above mentioned constitutional principles have been elaborated somewhat by the legislation on state administration. Thus the *Law on civil servants*[321] prohibits the favouring or discrimination of civil servants in their rights and ob-

[321] *Zakon o državnim službenicima*, Službeni glasnik RS, No. 79/05, 81/05 – corr., 83/05 - corr. and 64/07.

ligations and prescribes availability of all civil service jobs to applicants under equal conditions (art. 7 and 9). In addition, articles 18-23 of the *Labour law*[322] also prohibit discrimination on any grounds and specify the actions deemed discriminatory under the law.

However, the above-mentioned constitutional principles and legal provisions are relatively general which means that they do not represent an efficient legal framework for the prevention of discrimination. Further, constitutional and legal provisions have not been established in the by-laws of individual administrative bodies, including the intelligence services. An awareness of comparative experiences of modern European legislations, has given rise to a proposal for the adoption of a separate law to regulate the problem of discrimination. The adoption of political documents fighting discrimination and the establishment of specialised state bodies to monitor their enforcement and improvement of situation in this particular sphere is equally important.

Information could not be obtained on internal regulations and other measures ensuring and encouraging employment of women and minority members, nor information on gender and the ethnic structure of employees. The only piece of information which is useful is a call for employment applications from two years ago, in which the SIA seeks to encourage ethnic minority members to join the agency. Furthermore, the intelligence services also failed to provide information on the proportional representation of women and national minorities' members in leading positions.

Grade: 2 (two)

TRANSPARENCY

General Transparency

Secrecy is one of the main principles of the intelligence services. However, since they are concerned with the security of the democratic order wherein transparency of state institutions is a central principle, a certain degree of operational transparency is also expected. A proper balance of transparency and secrecy is not easy to define. Every country has a specific relation between these two principles depending on specific security challenges, risks and threats. Nevertheless, some generally acknowledged standards do exist and have to be met by all democracies. Accordingly, given their role and importance for the society as a whole, intelligence services are obliged to ensure that the principle of transparency and to enable free access to information of public importance in their possession.

[322] *Zakon o radu*, Službeni glasnik RS, Nos. 70/01 and 73/01.

Over 30 countries have constitutional guarantees for freedom of access to information of public importance held by state bodies, while over 50 countries regulate this right by laws.[323] In Serbia, this right was initially regulated by the *Law on free access to information of public importance*[324] passed in 2004, following demands from civil society organisations and the media in their four-year dialogue with state institutions. Two years later, Serbia obtained a new constitution. Article 51 of the constitution guarantees the right of access to information held by state bodies and organisations vested with public powers, in accordance with the law. Article 15 of the *Law on the basic organisation of intelligence services* likewise prescribes the services' obligation to inform the public on the performance of their tasks, in accordance with law.

However, despite the fact that access to information of public importance is both a constitutional and legal obligation, major problems still exist in practice. Non-accountability by state bodies, especially those in the security sector, to the public was a habit acquired over several decades, This is clearly in conflict with new demands and will take time to change. It is therefore not surprising that the 'Report of the Commissioner for Information of Public Importance'[325] names the SIA as the most extreme example of failure to act on the Commissioner's decisions (six in 2006) and notes that "it is not only the case of violation of the right of access to information held by the authorities, but of a complete non-implementation of *the Law on free access to information of public importance.*"[326] In one case, the SIA also failed to act on a court decision relating to the provision of data on the number of persons wiretapped during 2005. The SIA claimed that information was a state secret. In addition, the SIA did not submit an annual report on the implementation of the law to the Commissioner and also omitted to create and publish an Information Booklet. It is probable that during this period, similar problems existed in the implementation of this law by the military intelligence services (to which this particular legislation did not apply prior to the dissolution of the State Union of Serbia and Montenegro).

The lack of adequate transparency in the intelligence services can be illustrated by other examples. For instance, the intelligence services often withhold information from the media or decline to respond to MPs questions, citing rea-

[323] The principles of transparency and accessibility of information have, in addition to states, also been embraced by international organisations, as best illustrated by the example of the European Union. For more information, see Jadranka Jelinčić, *Vodič kroz Zakon o slobodnom pristupu informacijama* [Guide through the Law on Free Access to Information] (Beograd: Fond za otvoreno društvo, 2005).

[324] *Zakon o slobodnom pristupu informacija od javnog* značja, Službeni glasnik RS, No. 120/04 and 54/07.

[325] Poverenik za informacije od javnog značaja, *Izveštaj o sprovođenju Zakona o slobodnom pristupu informacijama od javnog značaja u 2006. godini* [Report on implementation of the Law on Free Acces to Information of Public Importance] (Beograd, mart 2007. godine)

[326] Report.

sons of state secrecy. On the whole, the intelligence services and the bodies to whom they report fail to inform the public on the performance of their duties. This is also partly due to the absence of a law clearly and precisely defining levels of confidentiality for documents, procedures for their classification and declassification, issuing of certificates for access to classified data, and sanctions for disclosing secrets. On the other hand, positive steps include an improvement in communication with civil society organisations and participation in various conferences and round tables where representatives from these services have discussed problems related to organisation, operation and reforms.

Grade: 2 (two)

Financial Transparency

For all countries transparency of the budget for security intelligence services is a sensitive issue, especially in respect to the specific structure of financial assets and their use for different purposes. The total amount of budgetary funds (appropriations) for individual intelligence services is made known to the public through the *Law on the budget* adopted by parliament annually. However, more detailed financial data are available only to members of parliamentary committees concerned with security, budget and finances, while confidential data of intelligence services' budgets is available only to the independent State Audit Institution. Data confidentiality is also protected by the auditor's reports, which assess the legality and appropriate use of funds. The reports also describe possible irregularities without revealing any data that could jeopardise the methods and objectives of covert operations. In some countries (such as Germany) the accounts and financial management of intelligence services are audited by a special unit of the state audit institution.[327]

Serbia has only recently made initial steps towards increased financial transparency of intelligence services. Only after the SIA became a separate organisation was the public allowed to see the amount of state appropriations. In 2005, a *Law on the State Audit Institution*[328] was adopted. This institution was granted the rank of a constitutional body by new Constitution (art. 96). However, the law's implementation has been postponed. Although the law was passed in 2005, members of the State Audit Institution's Council were elected only in September 2007, one year after the deadline specified by the law expired. By the end of

[327] For more information see: Hans Born and Jan Li, *Postizanje odgovornosti u obaveštajnoj delatnosti: pravni standardi i najbolji načini nadzora obaveštajnih službi* [Making intelligence accountable: Legal standards and best practices for control and oversight of intelligence agencies] (Geneva: Democratic Control of Armed Forces – DCAF, 2005).

[328] *Zakon o Državnoj revizorskoj instituciji*, Službeni glasnik RS, No. 101/05.

2007, the State Audit Institution was still without premises and equipment, and the Council, as its president notes, still "meets in one of the two conference halls of the Serbian parliament, depending on their vacancy."[329]

Financial transparency of the intelligence services has received no support from parliamentary committees for security and defence and financing. They have not informed the public whether the security services have used budgetary funds legally and meaningfully. Considering that the security services are exempt from procedures prescribed by the *Public procurement law*, parliamentary committees and state auditors should be obliged to control expenditures and duly notify the public. Without this scrutiny, the financing of intelligence services will remain clouded in mystery.

Therefore, in terms of financial transparency of the intelligence services, only the initial and mostly normative steps have so far been taken.

Grade: 2 (two)

PARTICIPATION OF CITIZENS AND CIVIL SOCIETY ORGANISATIONS

Article 53 of the 2006 Constitution guarantees citizens' right to participate in the management of public affairs, while the *Law on state administration* adopted in 2005[330] obliges state administrative bodies to organise public debate when drafting a law "that substantially changes the legal regime in a specific area, or regulates issues of special interest to the public" (article 77). In addition, article 21 of the *Law on the basic organisation of the security and intelligence system of the RS* requires the security services to inform the public about their work through the bodies they report to, It also gives them a possibility of directly informing the public "on certain security phenomena and events."

Despite the existence of a legal framework, citizens' participation in policy making is very low, for a number of reasons. First, the intelligence services in Serbia are still considered omnipotent and untouchable. It is a widespread perception that everything they do is secret and that demonstrating any interest in their work might be dangerous. This explains why citizens are basically uninformed about the intelligence services and are therefore unprepared to participate in security policy-making. The intelligence services themselves make no effort to change this situation. The political elite have also failed to motivate

[329] Aleksandar Milošević, 'Za državnog revizora prepolovljen budžet' {Halved budget for state auditor], *Glas javnosti,* Dec. 12, 2007, http://www.glas-javnosti.co.yu/clanak/glas-javnosti-12-12-2007/za-drzavnog-revizora-prepolovljen-budzet (accessed on 12 November 2008).

[330] *Zakon o državnoj upravi*, Službeni glasnik RS, Nos. 79/05 and 101/07.

the public to participate. Moreover, in the absence of a political consensus, the elite has proved incapable of adopting a clear and complete strategy of Security Services reform. This explains why all new laws governing these services have been 'rushed through, without giving sufficient time for a deeper analysis and public debate. Thus, for instance, the *Law on the basic organisation of the security and intelligence system* was adopted by parliament within a month of the government's submission of the draft, despite the fact that its preparation should have taken over a year.[331] Furthermore, the government has proved disinclined to accept suggestions offered by experts during the preparatory stage (or in relation to amendments), as illustrated by the *Law on SIA*. Finally, very few Serbian academic institutions and civil society organisations systematically address issues related to intelligence services (and the security sector as a whole).

The situation is the same, if not worse, with respect to public and civil society organisations' participation in policy implementation and evaluation. The main obstacle to this participation is the above-mentioned withholding of data on the work of the intelligence services. The only positive step in this respect is an increase in cooperation with acadeMoI and civil society organisations at international conferences and round tables. However, these are all *ad hoc* activities.

The organisational structure of intelligence services does not include a public relations department. Furthermore, military intelligence services do not even have an webpage to inform the public on their activities, whereas the SIA website has the total of 13 news items covering the period from 2005 until mid-2008. Non-existent or scant information, however, allows for speculation. This is why it is extremely important for these services to have a communications strategy with the public. This is all the more important given that it is in the agency's own interest to "shed the burdening legacy and restore the citizens' trust" as noted by Rade Bulatović, SIA director from 2004 until July 2008.[332]

Grade: 2 (two)

[331] By comparison, public debate in the UK on the Serious Anti Organised Crime Agency lasted over a year. For more information see Glen Segell, 'Reform and Transformation: The UK's Serious Organised Crime Agency', *International Journal of Intelligence and CounterIntelligence*, Volume 20, Issue 2 (2007): 217–239; Clive Harfield, 'SOCA-A paradigm shift in British policing', *British Journal of Criminology*, No. 46 (2006): 743–761.

[332] Bojan Tončić, 'Ratko Mladić je boravio u Srbiji do 2005', [R.M. stayed in Serbia until 2005] interview with Rade Bulatović, *Danas,* 31 August 2007, http://www.danas.co.yu/20070831/terazije1.html.

ACCOUNTABILITY – DEMOCRATIC CIVILIAN CONTROL AND PUBLIC CONTROL AND OVERSIGHT

One of the most important reforms is the creation of a legal framework for the work of intelligence services and the establishment of the mechanism of democratic civilian control and control and oversight, achieved in the 2002-2007 period. This was achieved by the adoption of the *Law on the FRY Security Services*. They were thus subordinated to democratically elected civilian authorities and parliamentary control, vested in the federal parliament's Commission for Control and oversight of Security Services. This was, although less successfully, followed by the *Law on the Security Intelligence Agency*, which regulated control over the agency. Finally, following the inauguration of the new constitution, which gives parliamentary control and oversight of intelligence services the rank of a constitutional category, the *Law on the basic organisation of the Security and Intelligence System of the RS* was passed. It includes fairly precise and comprehensive provisions regulating parliamentary control and control and oversight of intelligence services as well as the position and role of the National Security Council. In addition, article 3 of this law prescribes that the work of intelligence services is, in addition to democratic civilian control of parliament and National Security Council, also subjected to the control of the president of the republic, the government and other state bodies as well as the public 'in accordance with law'. However, the role of these other bodies and the public is not elaborated. Legislation on individual intelligence services should be harmonised with this law as soon as possible, including specifications of obligations of the services' leaders towards supervisory bodies.

Control by the Executive

The executive's role in the control of the intelligence services in Serbia has developed by means of several mechanisms. First, the government has broad functional, organisational and personnel powers. These include guidance and adjustment of their work, endorsement of acts on their internal organisation and job classification, as well as appointment and relief of their directors and leading personnel. As part of the Ministry of Defence, military intelligence services are under the Ministry's direct control and oversight. Intelligence services are obliged to submit annual plans and reports to the government, including data on the enforcement of laws and other government acts and conclusions, as well as data on any measures undertaken in the sphere of their activity.

The president of Serbia's control, although unspecified by the law, is related to his position of the head of state and his powers in the sphere of security and

defence.

The National Security Council has an important role in channelling and coordinating the intelligence services and overseeing their work. The Council considers intelligence security evaluations and determines the priorities of national interests. The Council also monitors the implementation of its conclusions, gives opinions on the proposed annual and medium-term plans for the intelligence services and offers its views to the government concerning the budget. It also monitors the use of the budget and advises on the appointments and replacement of directors.

The existence of a mechanism ensuring political neutrality of intelligence services' operations is particularly important for executive control. The *Law on the basic organisation of the services* prescribes that members of the intelligence services cannot be members of political parties and are obliged to act in accordance with the principle of legality and the rules of professional and political neutrality (art. 2, paras 2 and 3). The *Law on state administration* also obliges state bodies to observe the principles of professionalism, impartiality and political neutrality (art. 8), while the *Law on civil servants* prescribes their duty to act in accordance with the constitution, law and other regulations, as well as professional rules, impartiality and political neutrality. They are, while on duty, prohibited to express and advocate their political views (the principle of legality, impartiality and political neutrality, art. 5). Recurrence of these principles in the above-mentioned laws is entirely justified since depoliticisation of the intelligence services is a serious problem. Furthermore, one should not underestimate the potential for governments to use the intelligence services to serve their own interests. There are also other control and oversight mechanisms designed to prevent this possibility.

Grade: 3 (three)

Parliamentary Control and Control and oversight

Article 99, para 1(6) of the Serbian Constitution establishes the right of parliament to oversee the work of the intelligence services. As in other democratic states, the central role in this control and oversight is given to a special body – the parliamentary Defence and Security Committee. The role of this Committee is stipulated in article 16 of the *Law on the basic organisation of the security and intelligence system of the Republic of Serbia*. The Committee oversees the constitutionality and legality of the security services and their compliance with Serbia's National Security Strategy, Defence Strategy and security intelligence policy. It oversees observance of neutrality in the service, legality of use of special procedures and measures for the secret collection of data, and legality of use of budgetary and other assets. The Committee is also authorised to review

and adopt reports on the intelligence services, consider proposed laws, regulations and general enactments, and initiate and submit legal proposals. Furthermore, the Committee considers public proposals, petitions and submissions addressed to parliament. It proposes measures in response to these submissions. The Committee is authorised to rule on the illegalities and irregularities in the work of the services, draw conclusions and inform parliament. Finally, the Committee has the right to control the intelligence services' operations. Intelligence service directors are obliged to give Committee members access to their premises, insight into documentation and to provide information on their work.

There is little doubt that the powers of the Committee provide possibilities for proper parliamentary control and oversight. However, it is not clear how this control and oversight will function in future. The Committee lacks experience and its work covers the whole security sector. It requires a large number of members with specific professional knowledge and a strong dedication to their work. Parliamentary control has so far been less than satisfactory, since its work has almost exclusively dealt with the SIA's semi-annual reports. However, since parliamentary control and oversight was only introduced in mid-2002 it may require time for the Committee to develop and improve its capacity.

Grade: 2 (two)

Judicial Control

Judicial control of the intelligence services is primarily focused on the legality of measures for secret collection of data which requires written court approval. Although data on the approvals for secret data collection are not publicly available (as already mentioned), we could assume that there are no major problems in judicial control, since the competent courts make no special references to this particular matter in their reports .

The courts also decide on the legality of administrative acts, possible criminal responsibility of service members and compensation of damages inflicted on citizens in administrative disputes. Control in administrative proceedings is sporadic, since the intelligence services rarely adopt administrative acts, while there is no judicial control of the services' administrative actions. During the period observed, the courts ruled in several cases on criminal responsibility of service members and responsibility for damage resulting from their work. Although the number of such cases is small, they nontheless represent important successes for the judiciary (compared with the situation before 2000) and it is expected that the number will increase, depending on the pace and success of reform of the judiciary.

Grade: 2.5 (two and a half)

Public control and oversight

Public control and oversight of the intelligence services is poorly regulated by the *Law on basic organisation of the services*. Article 21 of this law obliges the intelligence services to inform the public on their work through the bodies they report to and in a manner that does not endanger the rights of citizens, national security and other interests of the country. They may also directly inform the public on certain security phenomena and events. As already mentioned, there are practically no results for the time being and it is therefore impossible to speak of visible public control and oversight.

Independent institutions that play a role in controlling the intelligence services (including the Commissioner for Information of Public Importance, Ombudsperson and State Audit Institution) have only recently engaged in this control and oversight. From the start, they have had to overcome a series of difficulties and in a brief period only the Commissioner for Information of Public Importance has actually demonstrated a capacity for the control and oversight. The other two institutions are expected to do so shortly, in view of the importance of their role.

Important normative efforts have been made to create the conditions and for democratic civilian control and control and oversight, but the actual control and control and oversight have not yet yielded substantial results.

Grade: 2 (two)

RULE OF LAW

In its definition of the Republic of Serbia (art. 1), the 2006 Constitution stresses the principle of rule of law as one of the state's fundamental values. The Constitution goes on to define a whole series of specific principles, including the subordination of power to the Constitution and law, legality of administration, equality of all before the law, division of power, independence of the judiciary and court protection of human rights and freedoms. All state administration bodies and the intelligence services are bound by law to observe the principles of the rule of law. The *Law on the basic organisation of the services* stipulates that they should "act pursuant to and in accordance with the Constitution, law, and other regulations and general enactments, national security and defence strategies and the established security-intelligence policy of the Republic of Serbia" (art.2, para 1). Further, the competent parliamentary committee "oversees the constitutionality and legality of intelligence services' operations" (art. 16, para 2 (1)). In the similar vein, article 3, para 1 of the *Law on Security Services of the FRY* prescribed that the security services "perform their tasks pursuant to and in accordance with the Constitution and law", and in article 4, para 1, that they

"perform their duties in line with the principles of constitutionality and legality, respect of human rights and freedoms, professionalism and proportional use of power."

However, in reality, full observance of the rule of law by the intelligence services is a difficult task, not only in transition countries, but also in developed democracies. The central problem is the services' use of special measures and powers for secret data collection which could violate the public's right to privacy.

Until the early 1990s in Yugoslavia, the use of special measures and powers for secret data collection was based on classified by-laws. Serbia provided for the possibility of bypassing the principle of inviolability of letters and other means of communication with a decision taken by the president of the Supreme Court of Serbia in the *Law on internal affairs* adopted in 1991. This decision attracted much criticism,[333] and this issue was subsequently regulated by the 2001 *Law on criminal proceedings,*[334] as well as the laws on the SIA and the FRY security services passed in 2002. The main shortcoming of these laws was the fact that they were not mutually harmonised, either in terminology or in substance. Civil society has been particularly critical of the *Law on the SIA*. The law specifies that the decision to bypass the principle of inviolability of letters and other means of communication can be taken by the president of the Supreme Court of Serbia upon a request from the agency's director (art. 14). That "in effects, amounts to the restoration of the decision contained in article 13 of the republic *Law on internal affairs*, which has been widely challenged and contested as contrary to the FRY Constitution."[335] This provision is also contrary to article 232 of the *Law on criminal proceedings* which stipulates that the use of secret surveillance and recording measures requires the approval of an investigating judge. Intelligence services may also use this legal channel to obtain the required approval which additionally complicates control of their work.

A major deficiency of the laws on SIA and criminal proceedings is the absence of an obligation by the intelligence services' to inform individuals who have been subject to the above-mentioned measures. This contravenes article 42 of the Constitution, which stipulates that "everyone shall have the right to be informed about personal data collected about him, in accordance with the law, and the right to court protection in case of their abuse." Incidentally, a 1999 recommendation of the Council of Europe states that the intelligence services must observe the European Convention of Human Rights, which in article 8 prescribes that a citizen is entitled to be informed on a special measures applied

[333] For more information, see: Bogoljub Milosavljević, 'Secret data collection authorities of the police and other state bodies: Domestic regulations and European standards', 69-70.

[334] The new *Law on criminal proceedings* was adopted by parliament in 2006, but its implementation was postponed until 31 December 2008.

[335] Bogloljub Milosavljević, 'Reforms of Security Intelligence Services: The case of Serbia,' 102.

on him, and the results of its application.[336] The *Law on the FRY Security Services* alone includes provisions obliging the MSA to inform citizens who makes written requests whether they have been subject to secret data collection measures and to let them see the compiled documents (art. 34). However, to the best of our knowledge, this obligation has not been observed.

Although the legal regulation of special measures for the secret collection of data represents a major step forward, it is still not satisfactory. It is undesirable to have several legal regimes for the use of special measures, since this affects the public's legal security, and inevitably makes control and oversight of these measures more difficult. This problem must be overcome by the adoption of comprehensive, meaningful and precise legislation, in accordance with the Constitution. It is also necessary to adopt new legislation governing the protection of personal data, bearing in mind that the current law was passed over ten years ago and does not meet standards established by the Constitution, nor those of the European Convention on Human rights.

Grade: 2 (two)

EFFICIENCY

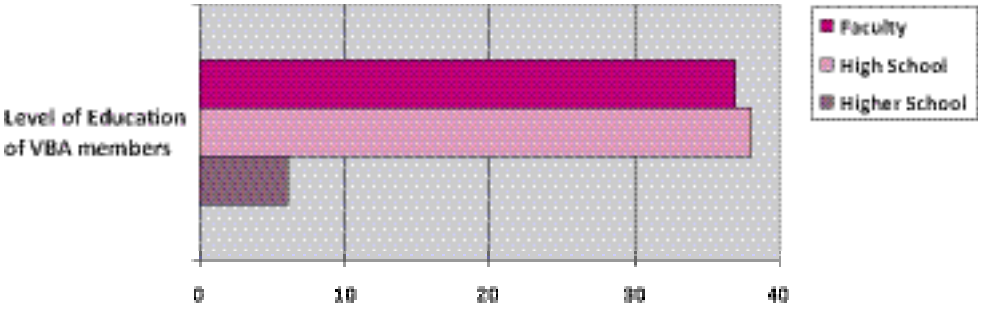
It is difficult to judge the efficiency of the intelligence services because of a lack of publicly available information. Public statements by the heads of the services are the only source of information. According to a statement by SIA director Rade Bulatović made in October 2006, the agency had undergone important personnel and organisational changes and done a lot to improve efficiency. He stated that: "In order to ensure the conditions for greater efficiency of its work, the internal organisation of the agency was changed and simplified to the extent possible." In addition, "a large number of leading positions were removed and the number of personnel increased, mostly in operations."[337] The SIA director also spoke of internal budgetary control. Between 2002 and mid-2007 a third of the operational composition of the Agency was changed and the total

[336] For more information, see: Bogoljub Milosavljević, 'Secret data collection authorities of the police and other state bodies: Domestic regulations and European standards', 72.

[337] Rade Bulatović, 'Reforma sistema bezbednosti u Srbiji: dostignuća i perspektive', [Reform of the Security System in Serbia: Achievements and Prospects] in *Reforma sektora bezbednosti u Srbiji: dostignuća i perspektive*, ur. Miroslav Hadžić. (Beograd: Centar za civilno-vojne odnose, 2007), 77–78.

number of its members reduced by 15 percent (only in its logistics section).[338] Of the total number of SIA employees (unknown) about 50 per cent have higher education and the average age is 37 years (or more precisely only a dozen or so of its members are over 50). But, the director also notes that the RDB, or SIA, experienced a large number of radical changes following the loss of a large number of personnel, and that the continuity of appropriate replenishments went missing; "This situation has been overcome in our regular activities, but complete stabilisation takes time."[339] Furthermore, the UN sanctions against the FRY affected the quality of the intelligence services' equipment and technology. The "equipment used by SIA is old and far below operational standards of EU countries, as well as inefficient and unreliable and is, in that sense, an inferior solution for conducting criminal investigations."[340]

The situation in the military intelligence services is similar. According to a statement of the MSA head Svetko Kovač in October 2006, the agency underwent organisational changes and intensive preparations were under way for the difficult task of personnel reform. Thus 50 percent of the present MSA personnel were admitted after 2002. Further, during the 2001-2006 period about 360 of its employees, predominantly officers, were made redundant. The majority of MSA employees - 52 percent - are aged between 30 and 40, while 13 per cent are under 30. Nineteen per cent have attended various post-graduate studies, 22 per cent have completed foreign language courses, of whom only eight per cent have second level certificates.[341]



Graph 4: professional qualifications of MSA members

[338] Bojan Tončić, 'Ratko Mladić je boravio u Srbiji do 2005', intervju sa Radetom Bulatovićem, *Danas,* 31 August 31, 2007, http://www.danas.co.yu/20070831/terazije1.html

[339] Tončić.

[340] Dragan Jovanović, 'Posebna prava i ovlašćenja koja primenjuje policija', [Special rights and authorities of the police] u *Demokratski nadzor nad primenom posebnih ovlašćenja,* urs. Miroslav Hadžić i Predrag Petrović. (Beograd: Centar za civilno vojne-odnose, 2008), 86.

[341] Svetko Kovač, 'Reforma obaveštajno-bezbednosnih službi u Srbiji', [Reform of Intelligence Security Services in Serbia] u *Reforma sektora bezbednosti u Srbiji: dostignuća i perspektive*, ur. Miroslav Hadžić (Beograd: Centar za civilno-vojne odnose, 2007), 82.

However, the data offered by the directors of the intelligence services are impossible to verify by independent sources. It is likely that the directors have sought to present their organisations to the public in the best possible light. On a number of occasions, some have declared that their services are "the best in the region." While accepting that the information on the efficiency of intelligence services is 'sensitive', the fact remains that no state body in charge of their control and oversight has so far informed the public on the efficiency of these services.

Efficiency evaluation must take into account the possibility that the abovementioned information may not be reliable and that the intelligence services as part of the state administration inevitably have the same characteristics, as well as the fact that transparency is substantially lower compared with other parts of the state administration, which is why their efficiency may realistically be more doubtful. In conclusion, there is not sufficient reliable data to evaluation this dimension.

Grade: 2 (two)

EFFECTIVENESS

Integratedness

Until recently, Serbia (and before that the FRY and the State Union of Serbia and Montenegro) did not have a single body for coordination and operational harmonisation of the intelligence services. This has strongly affected efforts for creating an integrated system. The adoption of *the Law on the basic organisation of security and intelligence system of the Republic of Serbia* in 2007 and the establishment of the National Security Council will hopefully resolve this problem. The law defines intelligence services as part of a single security intelligence system in Serbia, and gives the National Security Council the duty to harmonise the work of intelligence services and their cooperation with the competent bodies for defence and internal affairs, as well as other state bodies, including cooperation with security bodies and services of other states and international organisations. The Council comprises the president of the republic, the prime minister, ministers for defence, internal affairs and justice, the chief of the General Staff of the Serbian Armed Forces and directors of intelligence services. Operational harmonisation of intelligence services is the duty of the Coordination Bureau, consisting of intelligence service directors and the secretary of the National Security Council.

Grade: 2.5 (two and a half)

Ratio between aims, resources and outcomes

Another precondition essential to evaluate the effectiveness of intelligence services - a National Security Strategy - has not been created as yet. Effectiveness is usually understood to denote a balance between the aims, invested resources and achieved results. It is thus reasonable to ask how to evaluate the intelligence services in the absence of the most essential parameters - defined security aims and resources. Moreover, the law stipulates that the security services act "pursuant to and in accordance with the Constitution, laws, other regulations and general enactments, National Security Strategy, Defence Strategy and the established security intelligence policy of the Republic of Serbia," for which a National Security Strategy is a precondition. A strategy is also a precondition for the control of intelligence services, since the competent parliamentary committee has the power to "oversee the compliance of the services' work with the National Security Strategy, Defence Strategy and the security-intelligence policy of the Republic of Serbia." The National Security Strategy is also important as a precondition for the successful functioning of the National Security Council. Namely, this body should harmonise the work of intelligence services by reviewing intelligence security evaluations and adopting the relevant conclusions, defining the priorities and ways of protection and channelling the pursuit of national interests attained through intelligence security activities.

With this in mind, elaboration and adoption of the National Security Strategy should be undertaken as soon as possible and this document should express a broad social consensus on security issues. It should be based on detailed research and analysis carried out with the participation of state bodies, academic institutions and civil society organisations. In addition this document should precede strategic defence documents (the existing Defence Strategy and Strategic Defence Review were adopted in the joint state of Serbia and Montenegro). Finally, Serbia is the only SEE country which has not yet adopted a National Security Strategy.

Grade: 2.5 (two and a half)

Legitimacy

In addition to the above, we should add that publicly available data on the effectiveness of the intelligence services does not exist. The same is true for the data on public evaluation of their work.

Grade: 2 (two)

4. Institutions with policing competencies

Marko Savković

The Customs Administration (CA), the Administration for the Prevention of Money Laundering (APML) and the Tax Police can, unlike other bodies of the Serbian Ministry of Finance, use some of police powers when performing their duties. This makes them specific actors of the security sector. For this reason the first part of the chapter will present and analyse their competencies. After, their security capacities will be measured and assessed based on a uniform methodology, and within the scope of analysis of reform trends and achievements within these bodies.

Although the basic task of the CA is to enable the flow of goods and passengers, employees of are also obliged to ensure "full efficiency and effectiveness of control, i.e. disclosing and combating customs and other infringements, in particular terrorism, organised crime and corruption."[342] The 2003 law incorporated the customs service into the group of state institutions engaged in combating crime. Its employees were given power to use firearms,[343] as well as to perform vehicle stop and search[344] within the entire customs area.[345]

The *Law on tax procedure and tax administration* stipulates the powers of the Tax Police, which are almost identical to those of the Crime Investigation Police during pre-investigation proceedings.[346] The Tax Police thus has all the powers of the classic police, except those restricting freedom of movement. In order to disclose customs crime and the perpetrators, the Tax Police is authorised to "summon the citizens, collect necessary information from them, inspect the documents of state bodies, companies, businesses and other legal entities, conduct search of vehicles, passengers and luggage, conduct search of specific

[342] Dejan Carević, 'Reforma carinske službe u Srbiji', in *Reforma sektora bezbednosti u Srbiji: dostignuća i perspektive*, Ed. Miroslav Hadžić. (Belgrade: Centre for Civil-Military Relations 2007), p. 97.

[343] *Customs law*, art. 276, para 6, the Official Gazette of the Republic of Serbia, no. 73/2003 and 61/05.

[344] *Customs law*, art. 278.

[345] *Customs law*, art. 6, "The customs area of Serbia includes the territory, the territorial waters and airs space above Serbia. The border of the customs area is identical to the state border of Serbia."

[346] *Law on tax procedure and tax administration*, the Official Gazette of the Republic of Serbia, no. 80/2002, 84/2002, 23/2003, 70/2003, 55/2004, 61/2005, 85/2005, 62/2006 and 63/2006, Art. 135.

facilities and premises of state bodies, companies, businesses and other legal entities, issue search order for wanted persons and objects."[347]

Money laundering is a relatively new form of corporate crime. It is a specific criminal activity which results from previously committed criminal acts, but it is also a starting point for future crime.[348] Money laundering is a means of turning illegally gained sums legal within national and international payment systems.[349] As criminal syndicates' ability to launder 'dirty money' grows, their overall power within society increases. If society is in transition, the increasing power of these syndicates becomes a potential threat for the success of reforms; "The criminal act of money laundering has a much wider negative impact on society as a whole, since its primary purpose is to disguise other serious forms of crime, particularly in their organised form, and to continue with the criminal activity without fear of being disclosed."[350]

The establishment of a separate Financial Intelligence Unit (FIU) was one of the most urgent tasks of reform in Serbia. On 27 September 2001 the federal parliament passed the *Law on the prevention of money laundering,*[351] which established a Financial Intelligence Unit (FIU) as an independent commission for the prevention of money laundering at the federation level. The FIU was renamed the Administration for the Prevention of Money Laundering (APML) in April 2003, after parliament adopted the *Law on ministries*[352] which, in line with the provisions of the Belgrade Agreement, transferred the fight against money laundering to the republican level.[353]

Organised crime syndicates are able to engage in unrestricted economic activities in the knowledge that state bodies with which they have established criminal ties will provide appropriate protection.[354] Participation in the activities of organised crime syndicates, as well as responsibility for the financing of certain armed groups that committed war crimes at the territory of former Yugoslavia are consequences of the methods used by the Federal Customs Admin-

[347] Boris Batarilo, 'Poreska policija' in *Demokratski nadzor nad primenom posebnih mera i ovlašćenja*, Ed. Miroslav Hadžić and Predrag Petrović 2008 (Belgrade: Centre for Civil-Military Relations 2008), 99–100.

[348] 'Borba protiv pranja novca u Srbiji', *Puls (Magazine on corruption)*, May – June 2006, 26.

[349] Mićo Bošković, 'Oblici ispoljavanja organizovanog kriminaliteta u privredno-finansijskom poslovanju', *Bezbednost,* no. 6 (2005): 915.

[350] Milovan Milovanović, 'ranje novca: neka otvorena pitanja' *Revija za bezbednost*, no. 5 (2008): 32.

[351] *Law on agency for deposit insurance, rehabilitation, bankruptcy and liquidation of banks*, the Official Gazette of the Federal Republic of Yugoslavia, no. 53/2001.

[352] *Law on ministries*, the Official Gazette of Serbia and Montenegro, no. 35/2003.

[353] 'Mission of the APML', website of *the Administration for the Prevention of Money Laundering* http://www.fcpml.org.yu/misija.htm (accessed on 23 Aug 2008).

[354] Mićo Bošković, 'Oblici ispoljavanja organizovanog kriminaliteta u privredno-finansijskom poslovanju', *Bezbednost,* no. 6 (2005): 915.

istration (FCA) during the 1990s.

In the first part of this chapter we present factors that determine the context of the CA's development, and describe the burden of its political and institutional heritage. We then consider the internal reform of institutions that have certain police competencies, with an overview of the public image they have in Serbia today. The second part of the chapter examines the achievements of reform of institutions with certain police powers in 2008.

The Centre for Civil-Military Relations sent requests for information to the CA, the APML and the Tax Police in June 2008, but only the CA responded. Consequently we focus on the work of CA when examining representativeness and transparency, as well as criteria for control of special investigative measures and powers.

Federal Customs Administration (FCA) heritage

The international isolation in which the Federal Republic of Yugoslavia found itself after May 1992 had a negative impact on the work of the customs service. Together with high inflation levels between 1995 and 2000, around 270,000 people in Serbia lost their jobs. Under such circumstances the grey market blossomed. However, the price paid for reducing social tensions was that the flourishing of illegal trade and corruption.[355]

The FCA, headed by Mihalj Kertes, allowed individuals close to the Milosevic's regime to import illegally excise commodities with high profit margin (such as oil, tobacco, alcohol), as well as food and medicine. This led to the politicisation and corruption of institutions such as police, customs, tax police and judiciary.

The Milosevic regime tolerated this new situation for two reasons. Firstly, money it gained from these activities could be used to finance strategically important companies and institutions.[356] In this way resources were provided for the financing of armed groups in Croatia and Bosnia and Herzegovina.[357] Secondly, it enabled the continuous funding of the Socialist Party of Serbia.[358]

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[355] Jelena Unijat, 'Organizovani kriminal: slučaj Srbija', *Bezbednost Zapadnog Balkana,* no. 1 (2006): 15.

[356] 'Kertes: Branim se istinom' *Beta*, 8 October 2007: http://www.mail-archive.com/sim@antic.org/msg37495.html ¨(accessed on 17 June 2008)

[357] Miloš Vasić, Jovan Dulović and Davor Konjikušić, 'Hapšenje direktora Savezne uprave carina: Čudesni svet Bracike Kertesa' *Vreme, section "Dosije Vremena"*, http://www.vreme.com/arhiva_html/520/12.html (accessed on 17 June 2008).

[358] 'Kertes: Politički montirano', *B92*, 5 September 2007, http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=09&dd=05&nav_category=120 (accessed on 17 June 2008).

The overall disintegration of the system of values and international isolation were just two conditions for the creation of such a system. It was also necessary to appoint someone to head the Federal Customs Administration who the regime could trust. That person was Mihalj Kertes, who was appointed director of the FCA on 4 May 1994.[359]

According to an indictment issued in March 2007, Kertes, who was a indicted of a crime syndicate led by Slobodan Milosevic, unlawfully transferred a portion of the FCA's revenue to legal entities, political organisations and Serbia's State Security Service. A portion of the foreign exchange resources was, without the National Bank of Serbia's approval and upon the order of members of this syndicate, taken to Cyprus. The syndicate was charged with misappropriating at least 120 million German marks from the budget.[360]

Following Mihalj Kertes' orders, the FCA supplied the State Security Service with cars and other vehicles, thus providing logistic support to their activities aimed at intimidation of political opponents. In one such incident, four people were killed during the attempted assassination of Vuk Draskovic, president of the Serbian Renewal Movement in October 1999.

Although the former director of the FCA was first interviewed on 6 December 2000 (two months after the political changes), it took eight years to bring a sentence against him. The lack of political will to resolve this case was evident, since the process within the Special Department for Organised Crime of Belgrade District Court was stalled, during which time the statutory limitation ran out. Proceedings against Kertes and his accomplices were renewed several times, and the indictees were acquitted of any responsibility. Finally, Kertes was convicted and sentenced to eighteen months of imprisonment for complicity in the aforementioned murder and attempted assassination of Vuk Draskovic.[361] It was proven in court that the truck used during assassination attempt was provided upon Kertes' order.[362] Other court processes against Kertes on charges of abuse of office are still ongoing.

[359] 'Mihalj Kertes (Ko se boji Srba još?)', *Glas javnosti*, 20 May 2000, http://arhiva.glas-javnosti.co.yu/arhiva/2000/05/21/srpski/P00052006.shtm (accessed on 17 June 2008).

[360] 'Kertes: Politički montirano', *B92*, 5 September 2007, http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=09&dd=05&nav_category=120 (accessed on 17 June 2008).

[361] 'Maksimalne kazne za Ibarsku', *B92*, 19 June 2008, http://www.b92.net/info/vesti/index.php?yyyy=2008&mm=06&dd=19&nav_id=304459 (accessed on 20 June 2008).

[362] Dragoljub Todorović, 'Nema nikakve zbrke: povodom početka suđenja za zločin na Ibarskoj magistrali', *Glas javnosti*, http://arhiva.glas-javnosti.co.yu/arhiva/2001/10/16/pisma/srpski/pisma.shtml [accessed on 20 June 2008]

The beginnings of reform

On 6 October 2000 the Federal Customs Administration was seized by a group of armed men led by Dusan Zabunovic, the owner of the company MPS. At first glance this was similar to a pattern where state institutions of strategic importance were being taken over following the fall of the regime. According to the B92 television programme 'Insajder', Zabunovic had tried to position himself as an leading figure of the smuggling trade in Serbia during early 1990s. The programme claimed that his conflict with Kertes dated back to Kertes' decision (following Marko Milosevic's instructions) to destroy a new duty free shop which Zabunovic opened at the Presevo border crossing.[363]

After 2000 institutions with certain police powers went through "the four Ds: decriminalisation, demilitarisation, depoliticisation and decentralisation."[364] In this chapter the reform process in Serbia is examined as a two-track process. Reform of customs services and the establishment of new institutions (the Administration for the Prevention of Money Laundering and the Tax Police) are examined.

Corruption challenge

Due to its powers, corruption is a greater problem for the Customs Administration compared to other public administration bodies. During the last three years a great deal of public attention has been drawn to two large-scale police actions against crime syndicates linked to corruption in the customs service. In November 2006 the police initiated the action 'Sword' in several cities all over Serbia. During the action seventeen people – customs officers and small business owners – were arrested, suspected of acting as a crime syndicate, offering and accepting bribe, abusing their office and engaging in smuggling over an extended period of time.

In late May 2007, Slobodan Radovanovic, a Special Prosecutor for Organised Crime, brought an indictment against 28 individuals on charges of customs corruption, accepting bribes and abuse of office, as well as smuggling. This crime syndicate was active in exempting "certain beneficiaries of the alleged import" from customs monitoring and control, as well as enabling them to smuggle excise commodities and oil derivatives. The commercial goods in question were of substantial value and the imports came from China, Turkey, Bulgaria and Macedonia. As Tomo Zoric, spokesperson of the Special Prosecutor's Office said, "the

[363] 'Kako je Marko švercovao cigarete', *B92, Insajder*, 20 February 2006, http://www.b92.net/info/emisije/insajder.php?mm=02&nav_id=190194&yyyy=2006 [accessed on 20 June 2008].

[364] Unijat, 'Organizovani kriminal: slučaj Srbija', 14.

state lost dozens of millions of euros in unpaid tax and customs duty."[365] Velibor Lukovic, a former head of the Section for Combating Smuggling and a coordinator of the Customs Administration for the area south of Belgrade, was charged with organising this criminal syndicate. The syndicate was, in the meantime, reduced from 28 to 'just' eighteen members.[366]

Renewal of international cooperation and the beginning of customs services reform

In April 2001 the Federal Republic of Yugoslavia (FRY) became a member of the World Customs Organisation (WCO). Membership of this organisation was important for the Serbian customs service. Twelve international conventions and a number of recommendations were adopted under the auspices of the WCO. These conventions and recommendations were adopted in order to simplify and harmonise customs procedures, thus enhancing the movement of goods across the borders.[367]

Since 1 January 2002, the FCA is no longer directly responsible to the FRY government. It is instead subject to the Federal Ministry of Finance.[368] Three months later a new Director of the FCA, Vladan Begovic, announced the reorganisation of the customs service, in cooperation with the European Union (EU). Begovic stated that the strategy was made in cooperation with the World Bank.[369] Immediately after, the FRY joined the Trade and Transport Facilitation in South East Europe Programme (TTFSE), a regional project of customs administrations modernisation.[370]

In May 2003 the CA become part of the network of Regional Intelligence Liaison Offices (RILOs), acting under the auspices of the World Customs Organisation, gaining the right to join the Customs Enforcement Network (CEN), which facilitates the exchange of information and co-operation against smuggling. In 2003 the new *Customs law* and *Code of conduct for customs officers* came into

[365] 'Optužnica za carinsku mafiju', *B92*, http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=05&dd=28&nav_id=248670 [accessed on 24 December 2007]

[366] "Počelo suđenje carinskoj mafiji" *B92*, http://www.b92.net/info/vesti/index.php?yyyy=2007&mm=12&dd=10&nav_id=275828 [accessed on 24 December 2007]

[367] Website of the World Customs Organisation, http://www.wcoomd.org/home.htm

[368] Website of the Customs Administration of the Republic of Serbia, http://www.fcs.yu

[369] Website of the Information Directorate of the Council of Ministers of State Union of Serbia and Montenegro, http://ssinf.sv.gov.yu/saveznavlada/print.php?idteksta=5

[370] By joining the TTFSE, the state expressed its readiness to reduce costs and burdens at borders which are not customs related, and to reduce smuggling: Website of the Trade and Transport Facilitation in South East Europe Programme, http://www.ttfse.org

effect,[371] which specified rules of conduct for customs officers in relation to their colleagues, managers and members of the public during and outside of work hours.

Following 5 October 2000 the customs service faced problems resulting from poor relations within the State Union of Serbia and Montenegro. After Belgrade rejected a request not to re-appoint Mihalj Kertes FCA director, the Montenegrin authorities took control of the customs offices in Montenegro in 1998. After Kertes' re-appointment Montenegro ceased paying customs revenues into the federal budget.[372] This decision of Montenegrin authorities was politically motivated; Podgorica was no longer prepared to finance the politics dictated by Belgrade.

In its first regular report on progress towards EU accession drafted in April 2002, the European Commission (EC) criticised the fact that the Republic of Serbia and the Republic of Montenegro had separate customs administrations, two separate customs codes and two separate IT systems. At the time it was EC policy to observe the FRY (and one year later Serbia and Montenegro) as a single country, for the purposes of EU membership candidacy.

After the Belgrade Agreement was signed, the Serbian and Montenegrin Customs Administrations started regularisation of administrative customs, harmonisation of documents required in customs procedure and a gradual reduction of customs tariff in Serbia and increase of tariffs in Montenegro. The lack of will to carry out the agreement led to another negative EC assessment.

Establishment of new state bodies with certain police powers

The first *Law on the prevention of money laundering*, which was adopted by the Federal Assembly on 27 September 2001, envisaged the establishment of a federal body responsible for the prevention of money laundering, whose organisation and scope of work would be established subsequently by the federal government.[373] The definition included only "the placement of money[374] acquired

[371] 'Code of Conduct of Customs Officers' *Customs Administration*, http://www.fcs.yu/srpski/o_nama/kodeks.htm [accessed on 24 December 2007]

[372] Ratomir Petković, 'Federacija samo na papiru: Srbija i Crna Gora nisu više u istoj državi?', *AIM Press*, http://www.aimpress.ch/dyn/pubs/archive/data/199806/80622-019-pubs-beo.htm [accessed on 8 September 2008]

[373] *Law on prevention of money laundering*, art. 11, the Official Gazette of the Federal Republic of Yugoslavia, no. 53/2001.

[374] In money laundering we can distinguish phases of placement, laying (or covering) and integration. According to Miroslava Milenović, 'Pranje novca' *Puls (Magazine on Corruption)*, (July – August 2004): 1.

through illegal activities into the accounts of banks and other financial institutions […] by national and foreign physical and legal persons with the aim of conducting a legal economic or financial activity."[375] Hiding the illegal origin of money or property, including the following two phases of money laundering – "laying" and "integration" – were not considered an integral part of the crime.[376]

Soon after the *Law on tax procedure and tax administration* was enacted, the Tax Police was established within the security sector; "The amendments of the Law on Tax Procedure and Tax Administration changed the concept of the Tax Police powers, so that it […] became independent in conducting and applying the authorities it had."[377]

The powers of this institution (which are also called police competencies) are under the control of Public Prosecutor's Office. Coercive measures – search or investigative – cannot be applied by the Tax Police alone, but in cooperation with the Ministry of Interior (MoI). According to the law, cooperation between the MoI and the Tax Police is based on special agreement. After the law came into effect, this agreement was signed by the Minister of Finance and the Minister of Interior. It clearly defined the forms and methods of co-operation between the Tax Police and the Ministry of Interior.[378]

After the nature of the union of Serbia and Montenegro changed, the fight against money laundering was transferred from the federal level to the level of member states. The Federal Commission for the Prevention of Money Laundering was replaced by the Administration for the Prevention of Money Laundering. The new Law on the Prevention of Money Laundering was passed by the Serbian parliament on 28 November 2005.[379]

On 25 September 2008 the Serbian government adopted the National Strategy against Money Laundering and Financing of Terrorism.[380] However, this law (which is a response to international obligations) had still not been enacted at the time of writing (September 2008).

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[375] 'Borba protiv pranja novca u Srbiji': 29.

[376] Ibid.

[377] Miodrag Vuković, 'Uloga poreske policije u reformi sektora bezbednosti', in *Reforma sektora bezbednosti u Srbiji: dostignuća i perspektive*, Ed. Miroslav Hadžić. (Belgrade: Centre for Civil-Military Relations 2007), 118.

[378] Vuković, 119.

[379] The Official Gazette of the Republic of Serbia, no. 107/2005, 117/2005, 62/2006.

[380] 'Notice' *Website of the Administration for the Prevention of Money Laundering*, http://www.apml.org.rs/index.php?option=com_content&view=category&layout=blog&id=6&Itemid=6&lang=rs&limitstart=4 (accessed on 11 Nov 2008).

REPRESENTATIVENESS

Representativeness of women

Article 21 of the Constitution of the Republic of Serbia prohibits any discrimination, direct or indirect, on the grounds of gender.[381]

Article 18 of the *Labour law* introduces even more comprehensive prohibition.[382] Unlike the Constitution, this law defines the concept of direct and indirect discrimination. Whereas direct discrimination is "any action […] that puts an employee or a person seeking an employment into unfavourable position in relation to others in the same or similar situation", "indirect discrimination […] exists when an apparently neutral provision, criterion or practice puts […] into unfavourable position in relation to the others who are seeking employment […] due to certain attribute, status, position or belief."[383]

Article 9 of the *Law on civil servants* stipulates that, in recruitment decisions, a candidate's professional qualifications, knowledge and skills are the decisive criteria.[384] A civil servant's promotion will depend on whether he or she has these qualities or not. This is reaffirmed by article 11, which stipulates equal opportunities for all employees.[385]

Article 318 of the *Customs law* prescribes the conditions for recruitment of customs officers. Gender is not a condition. The criteria for recruitment, apart from formal requirements,[386] are the type and degree of professional qualification. Article 322 of the law refers to the requirements for promotion and stipulates that the only condition for promotion appraisal of professional capabilities.[387]

According to information received by the Centre for Civil-Military Relations from the Bureau of the Director of the Customs Administration on 25 June 2008, candidates are recuited regardless of their gender, race or ethnicity. It was fur-

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[381] *The Constitution of the Republic of Serbia*, Art. 18, the Official Gazette of the Republic of Serbia, no. 98/2006.

[382] *Labour law*, art. 18, Official Gazette of the Republic of Serbia, no. 24/2005, 61/2005.

[383] *Labour law*, art. 19.

[384] *Law on civil servants*, Art. 9, Official Gazette of the Republic of Serbia, no. 79/2005, 81/2005 and 83/2005.

[385] *Law on civil servants*, Art. 11.

[386] "That [the person] is a citizen of Serbia and Montenegro, that he/she has not been sentenced to a minimum three months of imprisonment, that he/she has not been convicted of fraud, violence or drugs and that he/she fulfils special health and psychological and physical requirements for specific tasks, that his/her employment in a body of public authority has not been terminated due to disciplinary measures."
Customs law, art. 318, the Official Gazette of the Republic of Serbia, no. 73/2003, 61/2005.

[387] *Customs law*, art. 322.

ther stated that job requirements are never defined on the grounds of gender. In line with the positive legislation, "training […] professional development opportunities are organised in line with the needs of the customs service and gender is never a condition for professional advancement."[388]

It was also stated that in public calls for applications for hiring 55 officers in 2006, 30 women and 25 men were eventually employed. This can be illustrated by the vacancy notice for the position of head of Customs Office in Kraljevo published in March 2008 on the 'Infostud' web page. This vacancy notice did not list gender as a precondition for employment.[389]

Out of the total number of employees, women represent 40.25 per cent. This high percentage of female employees is a result of the fact that they perform administrative tasks (70 per cent of the employees), while the percentage of those engaged in operational tasks is significantly lower (37.2 per cent). This percentage ratio indicates that the division of 'male' and 'female' jobs is less obvious in the CA, but that administrative jobs are more often performed by women than men.

The CA does not recruit and promote candidates according to gender and the participation of women in the total number of employees is above the national level for public administration.[390] However, there is a lack of measures that would promote gender equality, which could eventually increase the number of women employed in operational positions.

Average grade: 3 (three)

Representativeness of ethnic minorities

The provisions of the Constitution, the *Law on civil servants* and the *Labour law* (which were cited in the section on gender equality) refer to the representativeness of ethnic minorities as well. In the *Customs law*, in the abovementioned articles 318 and 322, ethnicity is not listed as a precondition for recruitment or promotion.

Nevertheless, as stated in the information received from the Customs Administration, this institution tries to ensure proportional representation of eth-

[388] Response of the Bureau of the Director of Customs Administration to the enquiry of the Centre for Civil-Military Relations from 23 May 2008, sent in print on 25 June 2008.

[389] 'Konkurs za radno mesto: upravnik carinarnice', *website Poslovi Infostud.com*, http://poslovi.infostud.com/oglasi/dbk.php?posaoID=31351 (accessed on 3 Nov 2008).

[390] Participation of women in state administration and social insurance services, according to the Republic Bureau for Statistics is 38.5 per cent. The Republic Bureau for Statistics, 'Workforce Survey for April 2008' *Press release*, no. 373 (2008): 9-10, http://webrzs.stat.gov.rs/axd/dokumenti/saopstenja/RS10/rs10102008.pdf

nic minorities, especially in units located in areas where ethnic communities live. The note claims that one of the job requirements in these units is language knowledge of a given ethic minority.

The authorities are guided by regulations when recruiting and promoting candidates, and not by ethnicity. Positive discrimination measures, which are applied in vacancy notices for positions in those units where ethnic minorities live, is commensurate with the principle of efficiency. However, the vacancy notices are not sufficiently visible.

Average grade: 2.5 (two and a half)

TRANSPARENCY

General transparency

The *Law on free access to information of public importance* establishes the right of citizens, the media and other entities to free access to information held by public authority bodies. This law also establishes the institution of a Commissioner for Information of Public Importance. The Commissioner is independent in exercising his or her authority, and their main function is to ensure the effective implementation of this right. Article 52 of the Constitution guarantees this right.

However, in his work, the Commissioner faces inadequate legal framework. The right to free access to information is limited by: 1. A formulation by which access is allowed only to certain interested parties or based on requests in which there is a "justified" or "founded" interest for access to information; 2. A formulation by which access is limited data confidentiality, and; 3. A formulation by which some information is simply exempt.[391] Enforcement of the *Law on free access to information of public importance* is hindered by a lack of complementary regulations, such as a law on classification of information and a law on personal data protection. These laws would simplify "the deliberation of the order of precedence between the public's right to know and the data confidentiality requirements."[392]

In response to the Centre for Civil-Military Relations' enquiry, the Customs Administration stated that it responded to all nine requests for access to information received during 2007. Five of these requests were approved, three were

[391] Commissioner for Information of Public Importance, *Report on implementation of the law on free access to information of public importance in 2007* (Belgrade, March 2008), 17.

[392] *Report on the implementation of the Law on free access to information of public importance in 2007*, 18.

denied and one was only partially approved.

Article 39 of *the Law on free access to information of public importance* stipulates the obligation of the public authority bodies to publish an Information Booklet containing basic information on their work. The Information Booklet, which should be published at least once a year, should contain basic information on the institution's activities. The Commissioner issued the *Instruction* in July 2005, in which he recommended the publishing of the Information Booklet in electronic form on their websites.[393]

The Information Booklet would enable members of the public and the media to access important information on these bodies, staff capacities, organisation, authorities, use of budget resources and the type of information held. The institution itself would benefit from the drafting of an Information Booklet, since staff members would have the opportunity to assess their organisation and established procedures and make any necessary improvements.[394]

The Information Booklet included in this research was published by the Customs Administration in June 2008. The following sections of the Information Booklet are relevant for the evaluation of general transparency; "data on the type of information that the CA holds,""data on the type of information to which the CA allows access" and "the CA data that are important for the public."

The executives of the CA have established the practice of publishing public requests for access to information of public importance in the Information Booklet. In the June 2008 issue all five approved requests in 2007 were published.[395]

When the data that the CA can hold is concerned, the authors of the Information Booklet refer us to article 312 of the *Customs law*. This article stipulates that when customs officer is acquainted with confidential information while performing their duty (unless the information is defined as public), they must not pass the information to unauthorised persons or use it for personal gain. It is worth mentioning that the request for confidentiality of information is defined by this article as permanent.[396]

A portion of data that the CA holds is published in the periodicals following the work of this institution (*Statistical Bulletin* and *Customs Officer*). The other portion refers to customs regulations, explained in the publications *Passenger Flow*s and *Customs Guide*. The public relations service is an integral part of the CA. It is responsible for presenting information to the public through press re-

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[393] Commissioner for Information of Public Importance, *Instruction for development of the Information Booklet of the public authority bodies*, the Official Gazette of the Republic of Serbia, no. 57/2005.

[394] Instruction for development of the Information Booklet of the public authority bodies, 26.

[395] 'Information Booklet on the Customs Administration', *Customs Administration* (June 2008): 3, http://www.fcs.yu/srpski/right/Informator.pdf

[396] *Customs law*, Art. 312.

leases, and the webpage www.fcs.yu, from where the Information Booklet can be downloaded.

The CA provides access to "all information that are available, and which have been obtained during the activities or in relation to the activities of the CA."[397] The data, the document containing the data or a copy of this document, shall be made available to those seeking the information, except where there are grounds to not allow or to limit freedom of access.[398]

The webpage of the Administration for Prevention of Money Laundering displays questions regarding the *Law on the prevention of money laundering*. This has been done to remove any doubts regarding the information required related to financial transactions. The list of 'frequently asked questions' is updated on regular basis.[399]

By publishing the requests for access to information in the Customs Administration's Information Booklet, the CA has demonstrated its determination to apply the the *Law on free access to information of public importance*. The executives of the Administration for Prevention of Money Laundering have acted in a similar fashion. The only problem remaining is a lack of standardisation.

Average grade: 3 (three)

Financial transparency

The 2008 budget earmarked RSD 5,512.5 million for the CA. Budget revenues make up RSD 4,437.3 million of this sum and CA revenues of budget beneficiaries RSD 1,075.2 million. Donations from international organisations' amount to only RSD 4.5 million.[400] The CA resources increased by one third compared to 2007 (RSD 3,696.6 million).[401] The amount approved for 2008 is significantly

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[397] Information Booklet on the Customs Administration, 43.

[398] Information Booklet on the Customs Administration, 44. Conditions for limiting or denying free access exist where there is the possibility of jeopardising the values of life, health, safety, judiciary, defence, national and public security, economic wellbeing of the country and secret: *Law on free access to information of public importance*, Art. 9, the Official Gazette of the Republic of Serbia, no. 120/2004.

[399] 'Frequently Asked Questions' *website of the Administration for the Prevention of Money Laundering*, http://www.apml.org.rs/index.php?view=category&cid=6%3A---&option=com_quickfaq&Itemid=5&lang=rs (accessed on 5 November 2008).

[400] *Law on the budget of the Republic of Serbia for 2008*, the Official Gazette of the Republic of Serbia, no. 123/07.

[401] 'Information Booklet of the Customs Administration' *Customs Administration* (June 2008): 24, http://www.fcs.yu/srpski/right/Informator.pdf.

lower than the budget proposed by the CA of RSD 5,610 million.[402]

According to data available in the CA's Information Booklet, the unallocated surplus of revenue from previous years was spent on "rewards, bonuses and other necessary expenditures"; "contract services"; "regular repair work and maintenance"; "materials"; and "machines and equipment". The use of these resources for these purposes was approved by the Ministry of Finance. The approved resources were spent, except those allocated to contract services. Out of the approved RSD 78.5 million, only 36 million was spent.[403] In 2008 the largest portion of contract services will also be financed from the CA's own revenues, at a ratio of 5:1.[404] Considering that the salaries and related dues for those engaged in "special tasks – projects" (in diplomatic and consular offices and international missions) are already included under economic classifications 411 and 412 of the CA's budget (employees' salaries and allowances, social insurance), it is important to clarify what is implied under the category of "contract services."

Projected resources of the CA for 2008 indicate that the bulk will be spent on employees' salaries and social insurance (RSD 2,080 million, or 37 per cent of the budget). It is telling that there is no economic classification referring to investments. There are, however, items such as "regular costs", "regular repair work and maintenance" and "materials" to which RSD 835.6 million have been allocated. As already stated, in 2008 "contract services" will be mostly funded from the CA's own revenues (RSD 186 million). Although this is only three per cent of the CA budget, for reason of financial transparency it is necessary to clarify how these resources will be spent.

The 2008 budget stipulates that, according to the *Law on public procurement*, "a low value contract" is considered to be a contract where the estimated value is between RSD 270,000 and 2,700,000.[405] In practice this means that the law does not apply to contracts valued annually below RSD 270,000, and that contracts between RSD 270,000 and 2,700,000 are subject to procedures envisaged for low value contracts.

Article 124 of the *Law on public procurement*[406] obliges the client (buyer) to adopt regulations laid down by the *Rulebook on low value contracts*. According to the response received from the CA, "the contracts that fall under the threshold value set within a budget year, and to which the clients are not obliged to apply the provisions of the law, make up for less then one per cent of the total

[402] Information Booklet of the Customs Administration, 27.

[403] Information Booklet of the Customs Administration, 25.

[404] Information Booklet of the Customs Administration, 26.

[405] *Law on the budget of the Republic of Serbia for 2008*, Art.20, the Official Gazette of the Republic of Serbia, no. 123/07.

[406] *Law on public procurement of the Republic of Serbia*, Art. 124, the Official Gazette of the Republic of Serbia, no. 39/02, 43/03, 55/04, 101/05.

value of procurements within the CA."[407] It is assumed that the CA, due to a low number of such contracts, has not adopted a specific *Rulebook*.

The Information Booklet does not explain which organisational unit of the CA is responsible for the implementation of public procurement procedures. It is unclear whether responsibility is divided between organisational unit for whose needs tenders are made, or whether there is a single unit responsible for the CA.

Given that customs officers have the power to bear and use firearms,[408] the issue of future procurement of weapons arises. According to article 2 paragraph 4 of the *Law on public procurement*, the procurement of weapons is considered confidential and is regulated by a specific set of rules. The *Law on weapons and military equipment manufacturing and trade* regulates this matter in an unsatisfactory way.[409]

The bulk of the budget approved for the current year is spent by the CA on salaries and social insurance. The explanation of the economic budget classification "contract services" is missing. The public procurement procedure is being followed, but there is the lack of an appropriate legal framework to regulate the procurement and control of weapons. There is no information concerning which CA unit is responsible for the implementation of the public procurement procedure. While reviewing the budget it was impossible to determine the resources appropriated for the execution of special evidence gathering measures.

Average grade: 2.5 (two and a half)

PARTICIPATION OF CITIZENS AND CIVIL SOCIETY ORGANISATIONS

Participation in policy making

According to available information, the participation of citizens and civil society organisations in policy making is negligible.

Average grade: 1 (one)

[407] Response of the Bureau of the Director of Customs Administration to the enquiry made by the Centre for Civil-Military Relations.

[408] *Customs law*, Art. 276, para 6.

[409] Preconditions that the client must fulfil in order for trade to be successful are reduced to only one article in the law (Art. 26): *Law on arms and military equipment manufacturing and trade*, the Official Gazette of the FRY, no. 41/96, the Official Gazette of Serbia and Montenegro, no. 07/05, the Official Gazette of the Republic of Serbia, no. 85/05.

Participation in policy implementation and evaluation

The CA has concluded memoranda of understanding with a number of companies to establish a framework for intensive co-operation against customs violations. These memoranda are aimed at the prevention of drugs smuggling, violation of intellectual property rights and all acts that jeopardise the safe trade in goods. Complementary instructions define the rights and responsibilities of the signatories, and the forms of cooperation. The instructions define methods of provision of information that are helpful for the CA in disclosing and investigating attempted frauds.[410] A designated information line of the CA was established and citizens can use it to report cases of customs violations. At the webpage of the Administration for the Prevention of Money Laundering there is the section in which 'frequently asked questions' are listed, along with responses. This section is updated regularly.

At the conferences 'Reform of Security Sector in Serbia: Achievements and prospects', held in October 2006 and 'Democratic control and oversight over the use of special investigative measures and powers', organised by the Centre for Civil-Military Relations in November 2007, representatives of the CA, the Administration for the Prevention of Money Laundering and the Tax Police presented trends and achievements of reforms.

The basic preconditions for the participation of citizens in policy implementation and evaluation are fulfilled. However, there is no formalised cooperation between citizens and CSOs and institutions with police powers.

Average grade: 2.5 (two and a half)

ACCOUNTABILITY – DEMOCRATIC CIVIL CONTROL AND PUBLIC CONTROL AND OVERSIGHT

Control of use of certain police powers

CA exercises control over CA work. As a public administration body, the CA enforces laws and other regulations and enactments of parliament and the government, by undertaking administrative activities and executive tasks. How-

[410] *National Programme for Integration: a work-in-progress version*, Government of the Republic of Serbia (2008): 594: http://web.uzzpro.gov.rs/kzpeu/dokumenti/npi/npi_radna_verzija_maj2008.pdf

ever, the CA does not have legislative competences.[411] Immediate control and oversight of the CA is also done by the Administrative Inspectorate.[412]

The director of the CA is appointed by the government upon recommendation of the Minister of Finance.[413] The CA's director is subordinate to the Minister of Finance. Upon the director's recommendation the Minister approves internal post classification within the CA, decides on rights and responsibilities of the CA's employees and establishes the number of posts, their descriptions and structure. Finally, the Minister rules on employees' complaints concerning employment rights and responsibilities.[414]

The director's primary task is to ensure "coordination and a unified implementation of the regulation from within the CA's scope of work within the entire customs area."[415] Furthermore, the director is authorised to suspend and demote a customs officer, to dismiss him/her or to rehabilitate an officer who has been demoted.[416] The director can approve financial incentives to those who help to resolve customs violations and offences.[417] Upon the report of a line supervisor, the director can initiate an investigation on inappropriate conduct or violation of duty.[418] Finally, in accordance with the Criminal Procedure Code, the Director is obliged to inform the responsible Public Prosecutor on the criminal offence prosecuted ex officio.[419]

The Internal Control Department has existed as an independent organisational unit within the CA, since September 2003. The Internal Control Department's primary task is to define the measures of protecting and securing confidential materials. It also investigates and prepares reports on investigations concerning unprofessional conduct or corruption. The Internal Control Department obtains court warrants necessary for gathering criminal evidence and cooperates with other state bodies, international organisations, as well as educational, cultural or scientific research institutions.[420]

The CA believes that one priority of modernisation is an increase in the resources available to the Internal Control Directorate. This primarily means that the number of posts in the department should be increased and the office

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[411] *Law on public administration*, Art. 14, the Official Gazette of the Republic of Serbia, no. 79/2005.

[412] *Law on public administration*, Art. 45.

[413] *Customs law*, art. 255, para 1.

[414] *Customs law*, art. 256 and 258.

[415] *Customs law*, art. 255, para 2.

[416] *Customs law*, Art. 265.

[417] *Customs law*, Art. 266.

[418] *Customs law*, Art. 267.

[419] *Customs law*, Art. 275.

[420] Information Booklet on the Customs Administration, 14.

space enlarged.[421]

All the formal preconditions to enable the executive branch of power to control the CA are in place. However, based on existing legislation, it is not possible to establish how the executive state bodies actually oversee the use of certain police powers.

Average grade: 2.5 (two and a half)

Parliamentary control of use of certain police powers

Parliament oversees the work of the CA. However, reports from the sessions of the parliamentary Finance Committee show that between 18 January 2005, when the 24th session of this Committee was held under Vojislav Kostunica's government, until the last session held around the time of publication of this research (5 September 2008), there were no discussions on the work of the CA, Tax Police nor the Administration for the Prevention of Money Laundering.

Given that the Ministry of Finance drafted the new *Customs law* (and accompanying by-laws), due to be adopted by the end of 2008, a discussion by this Committee could be expected. Serbia has been through two election cycles in the past two years, followed by months of negotiations on forming the government. This has impacted on the work of parliament. Parliament engaged in frenzied legislative activity in order to complete the legal framework defined by the *Constitutional law*, but also by the expectations set forth by the European Commission. As a result the Finance Committee spent most of its time debating draft laws and appointments in the newly established state bodies, such as the Supreme Audit Institution.[422]

Reports from the sessions of the Security and Defence Committee in 2007 and 2008, suggest that the Committee had no interest in working with state bodies which have police powers.

Average grade: 1 (one)

Judicial control of use of certain police powers

According to the Criminal Procedure Code, the Investigative Judge decides upon use of special investigative measures, based on the Public Prosecutor's written

[421] Response of the Bureau of the director of CA to the enquiry made by CCMR.

[422] 'Committee activities and sessions', *Parliament of the Republic of Serbia*, http://www.parlament.sr.gov.yu/content/cir/aktivnosti/skupstinske_odbor_lista.asp?Id=42 (accessed on 5 Sep 2008).

justification or request. This request must contain evidence and information on the individual(s) accused of committing a crime. Furthermore, a request for the use of special investigative measures for combatting organised crime must be accompanied with a justification that the organised crime in question cannot be disclosed, proved or prevented in any other way.[423]

When the Investigative Judge decides that the conditions for approval of the use of special investigative measures have been fulfilled, they issue a court order. Otherwise, they issue the ruling according to why the use of such measures is denied. The order can contain information on the person against whom the measure is to be used and an explanation of the type of crime, and also the method, scope, place and duration of measure, including the party responsible for its application. This must be accompanied by a justification for the use of such a measure.[424]

The Investigative Judge oversees the use of special investigative measures by requesting reports, even on a daily basis when organised crime is concerned.[425]

When the special investigative measure is used, police authorities submit a special report to the Investigative Judge and to the Public Prosecutor. If these materials are not used as evidence in criminal proceedings, they are destroyed under the supervision of the Investigative Judge. Official minutes are made. However, this information is considered an official secret.[426] Based on the Criminal Procedure Code, within a Special Department for Organised Crime of Belgrade District Court, there are 'registers' upon which basic information is recorded on every case in which the use of special investigative measures is decided. This is where "the prosecutor's request or proposal is submitted, with all the annexes and enactments related to the Investigative Judge's control and oversight of measures used, police reports, official records on submitted materials including the list of materials, official minutes on the destroyed materials or note that the materials are used in the criminal proceedings, a copy of notice sent to the persons to whom the destroyed information referred, etc."[427]

It was impossible to obtain information on the effectiveness of judicial control over use of special investigative measures.

Average grade: 1 (one)

[423] Vučko Mirčić, 'Uloga sudstva u primeni posebnih mera od strane različitih državnih ustanova', in *Demokratski nadzor nad primenom posebnih mera i ovlašćenja*, Eds. Miroslav Hadžić and Predrag Petrović. (Belgrade, Centre for Civil-Military Relations, 2008), 106.

[424] Ibid.

[425] Ibid.

[426] Ibid.

[427] Ibid.

Public control and oversight of use of certain police powers

Based on all the available information, we were unable to determine whether there were any examples of public control and oversight over the use of certain police powers.

Average grade: 1 (one)

RULE OF LAW

Use of special investigative measures and powers during investigative procedures

"Special investigative measures", as stipulated in the Criminal Procedure Code, are "secret auditory and optical forms of surveillance of a suspect", "provision of simulated business services and brokerage of simulated business deals", "involvement of undercover agents", "access to records on personal and other related data on a suspect" and "control of banking and financial transactions of a suspect."[428]

The CA indirectly gathers personal and other data from existing records. The authorised customs officer is not obliged to inform the person to whom the data relates if it prevents or hinders their work.[429]

Within the CA's Sector for Control of Customs Regulations there is an Operational Centre whose task is to collect, process and forward intelligence. The intelligence is produced internal units of the CA and other state bodies, and can be collected through the 'customs phone line'. The Operational Centre is in charge of verifying and processing information it receives, and for forwarding this information to the responsible internal unit of the CA. The information is classified and completely protected. If the intelligence indicates that there is a reasonable suspicion of crime, it is then forwarded to the responsible organisational units within the Ministry of Interior. However, the problem of destroying and archiving of the information obtained in this way is yet to be resolved.

An authorised customs officer has the right and duty to carry firearms and ammunition under the conditions stipulated by the Minister of Finance, prescribed by the *Rulebook* on weapons of authorised police personnel and em-

[428] Momčilo Grubač, 'Posebna ovlašćenja organa krivičnog gonjenja i ustavna prava i slobode građana', in *Demokratski nadzor nad primenom posebnih mera i ovlašćenja*, Eds. Miroslav Hadžić and Predrag Petrović. (Belgrade, Centre for Civil-Military Relations, 2008), 49–50.

[429] *Customs law*, Art. 296, para 1.

ployees engaged in specific duties within the Ministry of Interior.[430]

If there is reasonable suspicion that a tax-related criminal offence has been committed, the Tax Police can use coercion to arrest suspects. Officers have the right to search apartments, businesses and other premises, as well as persons and vehicles. Finally, all objects that can be used as evidence in a criminal case can be seized by the Tax Police.[431] When arresting a suspect or seizing objects, the Tax Police coooperates with the Ministry of Interior.[432]

The Tax Police is not authorised to apply surveillance measures or to use telephone tapping, surveillance of other technical means of communication, nor optical surveillance.[433]

Information concerning financial transactions or the identity of parties involved which are relevant for the prevention of money laundering, are classified as official secrets. This information is recorded and exchanged in the three-way relationship consisting of an obligor,[434] the customs authorities and the Administration for the Prevention of Money Laundering. The obligors first record the data to establish the identity of the client. The customs authorities record information on cross-border transfers of cash, cheques, securities, precious metals or precious stones. The Administration for the Prevention of Money Laundering records all cash transactions that exceed EUR 15,000 in RSD counter value. It also records all transfers of cash, cheques, securities, precious metals or precious stones across the state border if their value exceeds the prescribed limit. The Administration also registers all initiatives of the responsible authorities undertaken for data verification so that the suspicion of money laundering can be investigated. Finally, every exchange of information (including that between competent national and foreign state bodies and international organisations) is recorded. The obligors, the customs authorities and the Administration for the Prevention of Money Laundering are responsible for archiving this information for the minimum of five years after the transaction or transfer has been executed.

According to article 25 paragraph 3 of the law, personal data held by the ad-

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[430] *Customs law*, Art. 276, para 6.

[431] Boris Batarilo, 'Poreska policija', p. 100.

[432] Ibid.

[433] Ibid.

[434] "For the purpose of this Law, the obligors shall be banks and other financial organisations (savings institutions, savings and credit organisations and savings and credit cooperatives), bureaux de change, postal and telecommunication enterprises as well as other enterprises and c-ooperatives, insurance companies, investment funds and other institutions operating in the financial market, stock exchanges, broker-dealer associations, custody banks, banks authorized to trade in securities and other individuals/entities engaged in transactions involving securities, precious metals and precious stones, organizers of classical and special games of chance (casinos, slot-machine clubs, betting places), as well as of other games of chance, pawnshops. (*Law on the prevention of money laundering*, Art. 4)

ministration may be forwarded to the competent foreign authorities "provided that the country to which the data is forwarded has regulated protection of personal data and with confirmation that the country's competent authorities will use the personal data solely with the aim of detecting and preventing money laundering."

However, a clear provision on who controls the Administration for the Prevention of Money Laundering when it is executing its authority to record personal data is missing from the law. This is a major flaw in the system.

The fact that there is no law on personal data protection is a major shortcoming and it has been only partially compensated by the procedure of collecting, processing and forwarding information of the CA. It is also worrying that archiving and destroying of information has not been resolved. There is no provision that specifies which body controls the Administration for the Prevention of Money Laundering when it is recording the personal information.

Average grade: 1.5 (one and a half)

EFFICIENCY

Human and material resources

In practically all corruption surveys, the public declares the customs services the most corrupt state authority. However, in Transparency Serbia's 2007 annual report, there is no information on corruption in the customs services. The CA was not included in the survey.[435] Widespead corruption in the service is confirmed by the current director Predrag Petronijevic: "There is no question that the phenomenon of corruption is present in the customs service too. More than 50 employees of the Customs Administration, currently under suspension, are investigated by the police and the judiciary. The investigation on some of them is conducted by the Special Prosecutor for Organised Crime of Belgrade District Court and they will probably be tried by the Court's Special Department. The fact that more than two per cent of the total number of employees in a public authority body, which should be highly responsible, are being investigated in one way or another, is something that should get us all thinking and that calls for urgent reaction so that we can reduce the level of corruption to the lowest

[435] As said at the end of the presentation; "the number of current cases of bribery committed by citizens is certainly higher, because some issues and areas have not been included in the survey (e.g. customs services, bribing for employment, bribing the inspection authorities)." "Globalni barometar korupcije 2007", *Transparency Serbia and UNODC*: http://www.transparentnost.org.yu/aktivnosti/antikorupc_sav/07122007.htm (accessed on 4 September 2008).

possible level."[436] So far the only measure that has been used against suspects is suspension, but without hiring new officers to fill these vacant positions.[437]

As possible solutions, Mr Petronijevic recommends staff rotations and systematic measures; "By introducing electronic customs processing of goods we will avoid direct physical contact of customs officers with importers or shipping companies, which is one of the key preconditions eliminating corruption. On the other hand, by strengthening some services within the CA, primarily internal control […] we will show clearly that the fight against corruption is one of our primary goals."[438]

Introduction of good governance into the CA is hindered by an inappropriate staff structure. The director of the CA said in 2007 that out of 2465 permanent staff members around 47 per cent had secondary school education […]; "We will try to increase the number of university-educated employees through new job classification, which should be completed by the end of this year."[439] Director Petronijevic announced that they would be also working on specific training of staff, reconstruction of the CA's Vocational Education Centre and modernisation of distance learning (or *e-learning*). The Customs CA also confirmed that they have an insufficient number of university-educated staff members.[440]

Customs officer training in the CA's Vocational Education Centre is conducted during the first six months of employment. The training consists of practical elements within customs offices and seminars. Theoretical training for those with secondary school education is organised separately from college or university graduates. After training the officers take the professional competency exam. There are also specialised seminars organised for some categories of customs officers, where more focused specialised topics are taught.[441]

The CA's plans to upgrade staff competencies could be hampered by government's announcement that it would take responsibility to find employment for workers forced to resign from the interim self-government institutions following Kosovo's declaration of independence. According to Mirko Cvetkovic, Minister of Finance at the time, there was a request to hire a number of people into the CA and Tax Administration. These workers had to submit evidence on

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[436] 'Promene iz temelja – Intervju sa Predragom Petronijevićem', *Ekonomist*, 8 Oct 2007.

[437] 'Novi zakon o sprečavanju pranja novca i finansiranja terorizma u skupštinskoj proceduri u oktobru', *Government of the Republic of Serbia*, http://www.srbija.sr.gov.yu/vesti/vest.php?id=72722&q=carina (accessed on 26 Aug 2008).

[438] 'Novi zakon o sprečavanju pranja novca i finansiranja terorizma u skupštinskoj proceduri u oktobru'

[439] 'Promene iz temelja – Intervju sa Predragom Petronijevićem', *Ekonomist*, 8 Oct 2007.

[440] Response of the Bureau of the director of Customs Administration to the enquiry made by the Centre for Civil-Military Relations.

[441] Response of the Bureau of the director of the Customs Administration to the enquiry made by the Centre for Civil-Military Relations.

their previous employment in Kosovo.[442]

The improvement of the CA's work has been significantly influenced by EU donations, implemented through the European Agency for Reconstruction (EAR). Together with the EC delegation, the EAR funded the construction of a new border crossing with Hungary – 'Horgos', the reconstruction of 'Batrovci' at the border with Croatia, and checkpoints 'Presevo' at the Macedonian border, as well as the reconstruction of 'Dimitrovgrad' railway station at the border crossing with Bulgaria. Since October 2000, the EU has invested EUR 23 million in the reconstruction of border checkpoints.[443]

The renovated Vocational Education Centre where customs officers are trained was opened on 10 September 2008. The EAR invested EUR 170,000 in its reconstruction. The training aids were modernised, and distance learning is finally available, facilitated by experts from the World Customs Organisation. Albert Camarata, a representative of the European Commission in Serbia, used that opportunity to praise the CA by saying that to a large extent the Serbian customs service had managed in practice to harmonise national laws with the EU acquis.[444]

Camarata's positive assessment of the CA was validated in the last *Progress Report of the European Commission*, published in November 2008. The report highlighted the particular importance of specific organisational units within the CA responsible for tariffs and ex post audit. They also emphasised the importance of implementation of risk analysis leading to larger seizures of drugs and smuggled goods. Finally, the report states that "the implementation of the new Code of Conduct for Customs Officers helped disclosure of cases of abuse of office and the prosecution of these individuals before the court."[445]

Addressing reporters at the opening of the renovated Education Centre, CA director Prederag Petronijevic said that the service "could now stand on its own two feet," following the replacement of more than 60 management staff. He pointed out that the social phenomenon of corruption can not be rooted out, but it can be reduced to a level tolerable by society.[446]

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[442] 'Zapošljavanje radnika koji su ostali bez posla u institucijama Kosova i Metohije', *Government of the Republic of Serbia*, http://www.srbija.sr.gov.yu/vesti/vest.php?id=86424&q=carina (accessed on 4 Sep tember 2008).

[443] "Otvoren Centar za obuku carinika", *Delegation of the European Commission in Serbia*, http://www.europa.org.yu/code/navigate.php?Id=593 (accessed on 15 Sep 2008).

[444] 'Uprava carina otvorila školski centar', *Beta*, http://www.beta-video.tv/?page=play&id=481&naslov=Uprava%20carine%20otvorila%20%C5%A1kolski%20centar, (accessed on 10 September 2008)

[445] 'Serbia 2008 Progress Report' *European Commission* (2009): 34, http://ec.europa.eu/enlargement/pdf/press_corner/key-documents/reports_nov_2008/serbia_progress_report_en.pdf

[446] 'Dan Uprave carina', *B92*, http://www.b92.net/info/vesti/index.php?yyyy=2008&mm=05&dd=25&nav_id=300360 (3 September 2008).

After the CA was accepted into the World Customs Organisation, reform of staff education quickly developed. The scandals that marked 2006 and 2007 only show how important it is for this process to be successfully completed. The transformation of the CA into a role model of "good governance" is impossible without cooperation with international organisations relevant for its work. Implementation of the *Integrated Border* A *Management Strategy* will provide new incentives for ongoing reform. However, the personnel structure is still not fully commensurate with the CA's needs.

Average grade: 3 (three)

EFFECTIVENESS

Integratedness

The *Law on the basic organisation of security and intelligence system* introduced the concept of a security intelligence system.[447] However, apart from the Security Intelligence Agency, which is a separate organisation and the Military Security Agency and the Military Intelligence Agency which are administrative bodies within the Ministry of Defence, the other institutions which make the rest of this system are not specified.

According to Dejan Carevic, representative of the CA, this institution uses an IT system that covers the whole country. It has over 2000 workstations used by 2500 customs officers, and is connected to the network by 50 local servers which are in turn connected to the mainframe.[448] The CA is engaged in crime prevention which is why it has responsibility over goods, vehicles, passengers and documents. Finally, the CA integrates the planning, management, directing, gathering and distribution of information. This indicates that, apart from its fiscal and protective function, the CA has acquired security, IT and coordination functions. Mr Carevic, however, notes that the CA does not exercise its authorities in the same way as the Ministry of Interior or the Security Intelligence Agency. The CA fulfils its goals through timely distribution of information to the other services within the Serbian security system, but does not undertake the executive measures.[449]

The CA and other institutions which have certain police powers are still not recognised by the public as actors in the Serbian security system.

Average grade: 1.5 (one and a half)

[447] *Law on the basic organisation of security and intelligence system*, art. 3, the Official Gazette of the Republic of Srrbia, no. 116/07.

[448] *National Programme for Integration of the Republic of Serbia with the EU*, 594.

[449] Carević, 'Reforma carinske službe u Srbiji', 98.

Ratio between aims, resources and outcomes

Serbia's *National programme for integration with the EU* proclaims two short-term priorities. The first one is the enactment of the new *Customs law*, which should be adopted by the end of 2008. This law is fully aligned with EU customs legislation, apart from the section referring to specific provisions reserved only for the member states. The other priority is the adoption of a new Code of conduct for customs officers, which would regulate their conduct in a more detailed and specific way, and which would strengthen the integrity of the customs service and prevent corruption.[450]

There are two mid-term priorities. The first is the implementation of the project 'Capacity building in the sector for implementation of the customs regulations within the Serbian CA in line with the EU best practices', which will be implemented in phases until 2014. The project will be financed through the EU's 'Instrument for pre-accession assistance' (IPA). The second priority is the adoption of the new Strategy of IT development of the customs services system, which should simplify existing procedures.[451]

Continuous implementation of the *Integrated border management strategy* is defined as a short-term, mid-term and long-term priority. According to the *Strategy*, the CA is one of four border services. The other three are the Ministry of Interior's Border Police, the Veterinary Inspection and the Phytosanitary Inspection of the Ministry of Agriculture, Forestry and Water Management. The integrated work of these four services should create conditions for efficient system of border control and surveillance.[452]

Five years after the reform of the Customs Administration had been initiated, Dragan Jerinic, who was director at the time, stated that the efficiency of this institution had increased significantly. Although there were three rationalisations (and reductions) of the personnel, the payment of customs duties has multiplied tenfold since 2000; "The level of disclosed cases is increasing every year by 20 per cent. This means that in five years we [the CA] increased the number of disclosed cases by five times although we had reduced the number of staff."[453]

In the first half of 2007 the CA managed to collect 61 per cent of income projected by the budget plan.[454] By 18 December 2007 it had collected RSD 54.35

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[450] *National Programme for Integration of the Republic of Serbia with the EU*, 595.

[451] *National Programme for Integration of the Republic of Serbia with the EU*, 595.

[452] *Strategy of the integrated border management in the Republic of Serbia*, Government of the Republic of Serbia (15 September 2008); 13, http://www.seio.sr.gov.yu/upload/documents/strategija_granice.pdf

[453] 'Za četiri meseca naplaćeno 60 milijardi dinara' *Danas*, 4 May 2006.

[454] 'Novi zakon o sprečavanju pranja novca i finansiranja terorizma u skupštinskoj proceduri u oktobru' *Government of the Republic of Serbia*, http://www.srbija.sr.gov.yu/vesti/vest.php?id=72722&q=carina (accessed on 26 Aug 2008).

billion in customs duties, exceeding the plan by one per cent. The total income, including VAT charged on imports, increased by 21.05 per cent compared to the same period in 2006. At the same time the number of misdemeanour procedure doubled compared to 2006.[455]

During this timeframe customs officers seized 226kg of heroin, 139kg of marijuana, 42kg of opium, 2.5kg of cocaine and approximately 58,000 ephedrine pills. According to the US Drugs Enforcement Agency, the seizure of 163kg of heroin at Gradina customs checkpoint in late October 2007 was the third largest seizure in Europe in the last five years.[456]

The CA not been able to establish the exact value and amount of goods of Chinese origin. In order to reduce abuses, in October 2007, the CA changed the method in which they collected data on goods from Asia submitted for customs procedure. At the same time trainings were organised on implementing the CEFTA Agreement, so that customs officers are trained to deal with goods coming from signatory states.

Through the implementation of its new competences and of the *Integrated Border Management Strategy*, the CA is growing into a body that can execute its IT, coordination and security functions. However, the activities of the CA so far have been reduced to the collection of customs duties and the prevention of customs violations.

Average grade: 3 (three)

Legitimacy

Public opinion in Serbia perceives the customs service as highly corrupt. This perception originates from the 1990s. Corruption was fuelled by an inadequate legal system left over from the Socialist Federal Republic of Yugoslavia (SFRY) which regulated the customs system and procedure. There were also unresolved border issues in the Federal Republic of Yugoslavia with former Yugoslav republics. In addition, the Milosevic regime had links to organised crime. Finally, the constant deterioration of customs officers's living standards, as well as the existence of a large number of discretionary legal provisions, enabled the customs officers to conduct procedures as they pleased.[457]

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[455] Ibid.

[456] 'Uprava carina u 2007. ostvarila dobre rezultate u zapleni narkotika', *Government of the Republic of Serbia*, http://www.srbija.sr.gov.yu/vesti/vest.php?id=80415&q=carina (accessed on 26 Aug 2008).

[457] 'Borba protiv korupcije', *Customs Administration*: http://www.fcs.yu/srpski/right/borba_protiv_korupcije.htm (accessed on 15 Sep 2008).

The Administration for the Prevention of Money Laundering and the Tax Police were not covered by public perception surveys.

By the end of 2006, the Council of Europe's Group of States against Corruption (GRECO) had conducted a second round of evaluation of the system against corruption in member states. The first round focused on bodies in charge of the fight against corruption and immunity of officials. The second round targeted seizure of assets gained through corruption, as well as public administration and legal entities. In Serbia (a member of GRECO since 2003) there was an evaluation for the first and the second round. The report, which included the analysis of the capacities of the CA and the APML, was adopted in June 2006. Since October 2006 the report has been made public.[458]

Several important recommendations from 2006 were introduced to the legal system. The institution of the Ombudsman was established, the Council of the Supreme Audit Institution has been appointed, the legislative framework for use of special investigative techniques was adopted, and the system of witness protection became functioning. In line with recommendations, the *Action plan for the implementation of the anti-corruption strategy* was also adopted. However, it has yet to have "efficient implementation."[459]

The GRECO Report from 2006 recommended Serbia to improve the implementation of the *Law on public procurement*, especially concerning the training of administrative staff involved in procurement processes. The report also recommended better cooperation between the Public Prosecutor and the police during investigations. It did not, however, specify the use of special investigative measures and powers.

Serbian authorities were given until the end of 2007 to submit a report on implementation of the recommendations. During the first half of 2008 GRECO experts assessed whether the report's recommendations had been enacted. According to information available on the GRECO website, a new report on Serbia had not been adopted by September 2008, nor had it been made public.[460]

Corruption is still one of the obstacles to the reform of institutions which have certain police powers. General public perception of the CA is negative, while the public does not know enough about the Administration for the Prevention of Money Laundering and the Tax Police.

Average grade: 2 (two)

[458] 'Korupcija – najviša prepreka na putu ka EU', *Portal Argus*, http://www.korupcija.org/paragraf/7769.html (accessed on 15 Sep 2008).

[459] 'Joint first and second evaluation report – Evaluation report on the Republic of Serbia', *GRECO – Group of states against corruption* (2008): 5-6, http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoEval1-2(2005)1rev_Serbia_EN.pdf

[460] The table with the overview of the report status is available at http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/ReportsRound3_en.asp

Chapter II

STATUTORY ACTORS THAT DO NOT USE FORCE

1. Parliament

Filip Ejdus

The institutions of the parliament and parliamentarism do not have a deeply rooted tradition in modern Serbian history.[461] Despite the fact that the first assemblies were held during the First and Second Serbian Uprisings (1804–1815), parliament became a legal institution in 1858 when the St. Andrew's Day Assembly was convened.[462] During the entire 20th century the institution of parliament was not sufficiently developed in Serbia. Though the 1903 constitution marked a departure from the principle of royal supremacy over parliament and Serbia became nominally a modern parliamentarian monarchy, the role of parliament was still more formal than real in Serbian political life.[463] After World War I notional parliamentarism continued, since political parties, governments and the king (often even the conspiracy groups such as 'Black Arm'), played more significant roles. World War II soon brought to power partisans and communists who abolished democracy and introduced a single-party system. This turned parliament into an institution that ritually voted for decisions already adopted by the Communist Party, and which completely degraded the institution of parliament for the next 45 years.

With the introduction of a multi-party system in Serbia in 1990, the role of parliament improved. However, it was marginalised in the next ten years, mostly due to the cesaristic, and later sultanistic, nature of the Milosevic regime.[464] Members of parliament were dependent on political parties, the parliament on the government and 'Rules of procedure' were frequently violated

[461] Konstantin Nikiforov, 'Parliamentarism in Serbia in XX century' *20th century History*, Vol. 23, no. 1 (2005): 9-26. Website of the Parliament of the Republic of Serbia, http://www.parlament.sr.gov.yu

[462] In August 2008, then unknown texts related to the work of parliament in the 19th century were found in the archives. These included the minutes from the secret sitting held because of the Berlin Congress in 1878, and acts from the St.Andrew's Day Assembly held in 1858.

[463] It is worth mentioning that during this period the 1888 Constitution was passed, the most liberal constitution Serbia had ever had. Some authors call the 1903-1918 period a 'golden age' of Serbian parliamentarism. For more information, see Slavica Vuckovic, 'Golden age – with epaulettes', *Republika*, No. 263 (2001).

[464] While a cesaristic regime has a degree of proto-democratic legitimacy, a sultanistic regime is based on sheer force and coercion. Slobodan Antonić, 'The nature of the regime in Serbia in the last years of Milosevic's power' *Sociology*, Vol.42, No. 4 (2000):44, and Slobodan Antonić,'Parliamentarism in Yugoslavia 1990-1996', *Law and Social Sciences Archive*, Vol. 83, No. 2 (1997): 177-198.

in order to marginalise the opposition.[465] That the Committee on Defence and Security held only eleven sittings (out of which almost a half were constitutive) between 1992-2001, illustrates parliament's inactivity regarding democratic control of armed forces.[466] Although Serbia has (at least in words) adopted democracy, since 5 October 2000 until the second parliament was elected in 2004, parliament continued to be burdened by problems similar to those encountered during the Milošević period and sometimes even more serious ones.[467] The security sector was faced with post-authoritarian legacies from Tito and Milosevic and with a post-conflict legacy of the 1990s. Paradoxically, between 2000 and 2003, the institution of parliament was occasionally in a worse state than during Milosevic's rule, due to a large number of reform measures which the government of the late Zoran Djindjic wanted to undertake and due to the need for the fast adoption of laws. This was particularly evident in the case of the unconstitutional termination of the terms of members of the Democratic Party of Serbia in 2002, as well as repeated vote-rigging (which was one of the reasons for the fall of government at the end of 2003).

The activities of the parliamentary Committee on Defence and Security during this period undoubtedly receives low appraisal as well. The parliament of FRY (from 2003 to 2006, the parliament of the State Union of Serbia and Montenegro), which was nominally competent for the control and oversight of Serbian Armed Forces, did not have clearly defined jurisdiction nor the political will to conduct effective control and oversight. For example, the SaM parliament was not competent to undertake budget control, since this was done by respective member-state parliaments, nor could it control the president of the FRY or the Supreme Defence Council. Similarly, it did not have jurisdiction over the election, promotion, appointment or dismissal of Yugoslav Armed Forces generals.[468] In addition, parliament controlled only the military intelligence services (Military Intelligence Agency and Military Security Agency) and services operating within the Ministry of Foreign Affairs (Service for Investigation and Documentation and Security Service) while civil security services (Security Information Agency in Serbia and National Security Agency in Montenegro) were under the jurisdiction of republic parliaments. The Defence Committee of the federal parliament had a very limited scope of formal competencies, such as "to consider bills, other regulations and general acts" and "to consider issues related to the control conducted by the Council of the work of the federal government and

[465] Dušan Pavlović and Slobodan Antonić, *Consolidation of Democratic Institutions in Serbia after 2000.* (Belgrade: The Official Gazette, 2007), 91.

[466] According to Dragan Šutanovac, at the time the member of the Committee on Defence and Security. More in Duška Anastasijević, 'A Panel – defence strategy in light of Euro-Atlantic integrations', *Vreme*, No. 811. July, 2006.

[467] Pavlović and Antonić, Consolidation of Democratic Institutions in Serbia after 2000, 92.

[468] Miroslav Hadžić, 'New Constitutional Status of the Military, *Vojno delo*, Vol. 55, No. 1 (2003).

other federal authorities and officials accountable to the federal parliament" (article 67).[469] However, though the Defence Committee worked relatively well under the conditions, the absence of political will in Montenegro for the preservation of the joined state was the biggest obstacle to the functioning of the parliament of the State Union of Serbia and Montenegro as a whole.

It was only during the second post-Milošević parliament (2004-2007) that the institution of parliament in Serbia began to consolidate.[470] This was primarily a consequence of the disintegration of the State Union of Serbia and Montenegro and the resulting transfer of the control and oversight over the military to the Serbian parliament (June 2006), the change of the 'Rules of Procedure' by which the competences of the Defence and Security Committee were extended (September 2006), and the adoption of the new constitution (December 2006). The new constitution stipulates that Serbian Armed Forces are under democratic and civilian control (art. 141), whereas parliament has competencies to decide on war and peace, proclaim state of war or state of emergency, control the work of the security intelligence services and to adopt a defence strategy (art. 99). Nevertheless legislative activity was the most intense in the entire history of Serbian parliamentarism.[471] From February 2004 to December 2006, the Committee held 24 sittings. A sub-committee was also formed to investigate the respect of human rights during the 'Saber' action of 2003. The sub-committee held seven sittings.[472] Regarding the reports of security sector actors submitted to parliament and the Committee on Defence and Security, the situation was as follows: In 2004, the Security Intelligence Agency (SIA) submitted two reports and the Ministry of Interior (MoI) four reports; in 2005, the MoI and SIA submitted two reports respectively and in 2006, one report was submitted by the MoI and two by the SIA. All reports were approved and adopted, except the *Report on the work of the Ministry of the Interior of Serbia* in 2003.[473]

[469] The Council of Republics of the Parliament of FRY, *The Rules of Procedure with Amendments and Additions* 2001.

[470] Pavlović and Antonić, *Consolidation of democratic institutions in Serbia after 2000*, 112.

[471] 260 laws were adopted, out of which 70 per cent were laws regulating completely new areas. For more information see The Parliament of the Republic of Serbia, *1000 days of the work of the National Assembly of the Republic of Serbia: Regular Report for 2004-2006, December 2006*. The report is available at http://www.parlament.sr.gov.yu/content/lat/aktivnosti/predsednicke_detalji.asp?Id=155&t=P

[472] Section for the Activities of the Working Bodies of the Parliament, *Report on the Work of the Committees 2004-2006, December 2006, 56*. The report is available at: http://www.parlament.sr.gov.yu/content/lat/akta/izvestaji.asp

[473] Report on the Work of the Committees 2004-2006, 56-61.

Parliamentary control and oversight of the security sector in 2007 and in the first eight months of 2008

In 2007 and 2008, parliamentary activity faced the consequences of tumultuous political life. Firstly, after the constitution was passed, new parliamentary elections were held on 21 January 2007 and the new parliament was established on 14 February 2007. The second recess occurred after Kosovo declared independence on 17 February 2008 and Koštunica's government fell. New parliamentary elections took place on 11 May 2008 and, after the new parliament was established on 11 June, Mirko Cvetković's government was nominated on 27 June 2008. Despite these developments, this period saw great progress in respect to security sector legislative regulation, primarily as a result of the adoption of the three key laws on 11 December 2007. These are: The *Law on defence,* the *Law on the Serbian Armed Forces* and *Law on the basic organisation of security and intelligence system of the Republic of Serbia*. During 2007, the Committee on Defence and Security held eleven sittings and considered two reports which were submitted by the MoI and SIA on their work. In 2008, the Committee held seven sittings only. It is important to note that the Ministry of Defence (MoD), since it came under jurisdiction of parliament in June 2006 until the end of August 2008, did not submit a single report.[474] Apart from that, the Committee on Defence and Security proposed nine amendments out of thirty, which parliamentary committees proposed regarding various motions.[475] During this period, the Committee did not deal with the public procurement of arms and military equipment. Furthermore, in 2006, 2007 and during the first eight months of 2008, Committee members did not carry out any visits to the institutions of the security sector nor to the military or police institutions.

[474] It should be mentioned that the MoD does not have this obligation in terms of law, which is a big shortcoming in the system of democratic civilian control of armed forces. The MoD submitted reports to the Commissioner for the Information of Public Importance and Personal Data Protection (February 2008), as well as the *Report to the Public on first 200 days of the work of MoD* (June 2008). However, the reports are part of the control and oversight of independent authorities and the public, not the parliamentary control and oversight.

[475] This fact is illustrative of the activity of this committee as compared to other committees. Parliament, *Report on the Work of Parliamentary Committees in 2007,* February Available at http://www.parlament.sr.gov.yu/content/lat/akta/izvestaji.asp

COMPETENCIES

The adoption of the constitution in 2006 and a set of defence and security related laws in December 2007 created a legal environment conducive to democratic civilian control, and, consequently, parliamentary control and oversight over the security sector. Parliament's 'Rules of Procedure', which regulate the competencies of the Committee on Defence and Security, was considerably enlarged in September 2006, to the extent that its competencies now include civilian democratic control of Serbian Armed Forces, consideration of the defence strategy, control, production and transport of weapons, as well as integrated border management.

Despite the fact that constitutional and legal competencies of the Serbian parliament were considerably improved, some shortcomings are still present. Although article 141 of the constitution clearly stipulates that the "Serbian Armed Forces shall be subject to democratic and civilian control", article 99, which regulates the competencies of parliament, stipulates that it supervises the work of the security and intelligence services, but not other security sector actors who use force, such as the police, military and private security companies. Similarly, the constitution stipulates that Parliament adopts only the defence strategy, while the *Law on defence* stipulates the adoption of the National Security Strategy as well, which, being a more comprehensive document, is also more significant. Furthermore, according to the *Law on Serbian Armed Forces,* parliament, the Ombudsperson and other government authorities in accordance with their competencies, as well as the public carry out democratic and civilian control of the military (art. 29).[476] Nonetheless, the *Law on defence* stipulates that only parliament exercises democratic and civilian control over the military, without mentioning any government or non-government actors. Still, the *Law on defence* stipulates that parliament should have competencies on the use of the military in foreign countries, which the *Law on Serbian Armed Forces* does not contain.[477] Finally, parliament 'Rules of Procedure' stipulate that only the MoI should submit reports, but not other government institutions, such as the SIA and MoD.[478]

[476] Provision in art. 29 of the *Law on Serbian Armed Forces* stipulates that the public and citizens also participate in the democratic-civil control, was included upon the proposal of the CCMR during a public debate in the summer of 2007. See in Đorđe Popović,"Commentary on the Draft Law on the Defence and
Draft Law on Military", *Western Balkans Security Observer, No.*7-8 (2008): 121-130.

[477] Especially in art. 40 of the Law on Defence.

[478] The Parliament Rules of Procedure is generally too long and complex, out of the need to record all legislative alterations. This is the reason for the incompatibilities.

According to the *Law on police*, the MoI should submit one regular report annually (more if necessary, or if requested by parliament). However, parliament 'Rules of Procedure' stipulate that the MoI must submit reports only upon the request of parliament. It is also worth noting that MPs do not use all the competencies at their disposal. For example, MPs have never applied the powerful mechanism of interpellation in the field of defence and security. In 2007 and in first eight months of 2008, the MPs did not use the mechanism of committees of inquiry, MPs' questions to executive authorities or field visits to sites belonging to the security sector.[479] This is partly due a dispute which arose regarding interpretation of article 19 of the *Law on the Basic organisation of security and intelligence system of the Republic of Serbia* which regulates direct control and oversight. According to this article, the head of the Agency must allow Committee members, and upon the Committee's request, ''free access to agency premises and documentation, provide data and information on the work of the agency and answer their questions."[480] The opposition interprets this article rather widely, while government authorities have a restrictive view of what ''direct control and oversight" means. It also remains unclear to whom and in what form the committee members report.[481] Therefore, throughout 2008, there was no direct control and oversight of the security and intelligence services by the Committee on Defence and Security, regardless of its formal competencies.[482] The Committee did not fully use its competencies with regard to the control of police either. For example, the Committee did not request a report on internal control from the MoI, though it is authorised to do so according to the current *Law on the police*.[483]

Though parliament's competencies for security sector control and oversight in 2007 and 2008 were not ideal and could be strengthened or harmonised, the implementation of the existing competencies in practice represents a much bigger problem. In brief, parliament's competencies over the security sector are awarded

Grade 3 (three).

[479] Information obtained from the National Parliament, 30 July 2008.

[480] Art. 19 of the Law on the Basic Organisation of Security and Intelligence System of the Republic of Serebia.

[481] The Law on Classification of Data is also missing.

[482] At the tenth sitting held on April 9, 2009, the Committee members agreed on a first visit to Military Security Agency, Military Intelligence Agency and Security Intelligence Agency, which should take place in May 2009.

[483] "Upon request of the Government and the working body of the National Parliament competent for the security and police work, the minister shall file a report on the work of the Department of Internal Afafirs of the police", Law on the Police, art. 179.

The Law on the basic organisation of security and intelligence services of the Republic of Serbia (The Official Gazette of RS, No. 116/2007) in article 16 stipulates: "Parliament performs control and oversight of the work of security and intelligence services directly and through the competent parliamentary committee [...] The Committee shall in particular:

- oversee the lawfulness and constitutionality of the work of security and intelligence services;
- oversee the compliance of the work of security and intelligence services with the National Security Strategy, Defence Strategy and security-intelligence policy of the Republic of Serbia;
- oversee the political, ideological and interest neutrality of the work of security intelligence services;
- oversee the lawfulness of the implementation of special investigative measures and measures for secret collection of data;
- oversee the lawfulness of budgetary spending and other assets;
- review and adopt reports on security and intelligence agencies' work;
- consider Bills, other regulations and general acts within the jurisdiction of security and intelligence services;
- start initiatives and proposes bills and draft laws within the agencies' jurisdiction;
- consider proposals, petitions and complaints of citizens lodged to parliament regarding the work of security and intelligence services and propose measures for their solution and inform the petitioner or complainant on the decision;
- determine facts on perceived unlawfulness or irregularities in the work of the agencies and their officers and make decisions upon them;
- report to parliament on its conclusions and proposals".

Parliamentary Rules of Procedure (Official Gazette of RS, No. 53/05) in article 46 stipulate that the Committee on Defence and Security: "shall consider bills, other regulations and general acts, and other issues relevant to the Serbian Armed Forces, the defence of the Republic of Serbia, integrated border management, production, output and transport of arms; shall consider Defence Strategy, issues related to exercising democratic and civilian control and oversight of the Serbian Armed Forces and defence system, as well as issues in the field of public and state security; shall review the report on work of the Ministry of Interior on the state of security in Serbia submitted to the parliament upon its request; shall monitor the work of security and intelligence services and other issues in the field of security, in accordance with the law.

Entrefilet 3: Competencies of parliament for the Serbian security sector control and control and oversight.

RESOURCES

In this section we analyse human and time resources that parliament, especially the Committee on Defence and Security, had in exercising control and oversight of the security sector in 2007 and 2008. Regarding time resources, the Committee did not devote much time to the consideration of bills at the time when key systemic laws were adopted in December 2007. Actually, the citizens of Serbia and their organisations had much more time to consider the bills than their representatives in parliament or in the Committee for Defence and Security.[484] These bills were put into parliamentary procedure in early December 2007, and were adopted by 11 December 2007. During this period, the Committee on Defence and Security met twice, first on 3 December (10th sitting) when representatives of the executive power presented the bills, and on 5 December (11th sitting) when MPs reviewed the amendments to the bills.

It is striking that the fifth session of the second regular sitting of parliament, with three above-mentioned bills on the agenda, started on 3 December at 10 am.[485] On the same day, the first sitting of the Committee was held, when the bills were presented to MPs for the first time. The sitting began at 9:20 am and ended at 11:25 am. Thus, the Committee on Defence and Security had 40 minutes to consider the three bills before the sitting at the parliament plenary began, which had the same bills on the agenda. The reason for this speed was that the *Law on implementation of the constitution of the Republic of Serbia* (The Official Gazette 98/06) stipulated that the laws pertaining to the military and the police should be adopted at the latest within a year from the day the constitution was adopted. The adoption of the laws was also a pre-requisite for presidential elections. Nevertheless, the time devoted by the Committee to the consideration of the bills was unacceptably short.

The Committee is comprised of seventeen members. The chairman of the Committee is a representative of the opposition while the vice-chairman is chosen from the ruling coalition. Analysis of members' professional qualifications and education shows that so far the political parties have not paid attention to

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[484] The Laws on the Armed Forces of Serbia, Defence and Security Services are rare examples of positive practice, not only in the security sector but in Serbia in general, as the draft laws can be put to public debate *ex ante*. The interest of the public to participate in the debate is well illustrated by the fact that between 1-31August, during the debate on draft laws, these documents were viewed by 65,576 visitors and nearly 75 per cent of proposals put forth by the public were accepted
http://www.mod.gov.yu/novi_lat.php?action=fullnews&showcomments=1&id=590 and
http://www.mod.gov.yu/novi_lat.php?action=fullnews&showcomments=1&id=606 [accessed 28 August 2008].

[485] 'The fifth sitting of the Second regular session of the Assembly convened in 2007' *National Assembly of the Republic of Serbia*
http://www.parlament.sr.gov.yu/content/cir/aktivnosti/skupstinske_detalji.asp?Id=664&t=I (accessed on 28 August 2008].

the professionalism and experience of MPs elected to the Committee. For example, in 2008, only one deputy had professional qualifications and experience in the security sector (a retired general), one deputy was a lawyer and a former MoI deputy minister, three were lawyers and two had degrees in economics and political science. Other MPs were engineers, managers, tourist guides, IT managers, writers and well-known artists and entertainers. These shortcomings could be overcome with the support of expert and administrative staff. Unfortunately, only one person is permanently employed in the administrative department of the Committee, assisted by two employees assigned from the Department of Defence and Security (one of whom is an intern).[486] In 2007 and 2008, the Committee did not set up any sub-committees nor did it hold joined sittings with other committees.

Due to the fact that limited human and time resources were available to the parliamentary Committee on Defence and Security during 2007 and 2008, this indicator is **awarded grade 2 (two).**

PRACTICE

On the basis of the Committee's activities, and the number of laws and other decisions related to the field of defence and security that parliament adopted in 2007 and 2008, the practice of parliamentary control and oversight of the security sector is quite good. The Committee on Defence and Security met eighteen times, almost once a month, and three systemic laws pertaining to this field were adopted, as well as several acts that directly regulate the field of defence and security. These laws are; the *Law on foreign affairs* (11 December 2007), the *Law on ratification of the agreement between the Republic of Serbia and the EU on readmission of persons residing illegally* (7 November 2007), the *Law on travel documents* (24 September 2007), the *Law on asylum* (24 November 2007) and the *Law on the ratification of the convention on police cooperation in South-East Europe* (23 July 2007). In this period the *Resolution of the Parliament of the Republic of Serbia on the protection of the sovereignity, territorial integrity and constitutional order of the Republic of Serbia* (26 December 2007) which proclaimed the military neutrality of Serbia until citizens decide on this issue in the referendum, was also adopted. However, parliament did not discuss nor adopt any strategic documents, such as the National Defence Strategy or Defence Strategy. Parliament did not discuss the possibility of sending the Armed Forces abroad either, not because the government had prevented parliament from discussing this issue, but because the government had not forwarded requests of this kind to

[486] Out of this number, two persons had higher education and one had secondary education. Data obtained from parliament on 30 July 2008.

parliament.

The last time when the issue of sending Serbian soldiers abroad was considered was in 2006, when a medical team of the Serbian Armed Forces was supposed to be sent to Afghanistan, as a part of a Norwegian contingent within ISAF. After that there was a gradual intensification of securitisation of relations with NATO member states over the disagreement on the status of Kosovo. The issue of sending Serbian soldiers to international military missions was put *ad acta.* During this period, on 3 December 2007, parliament held a debate on military and defence regarding the adoption of the mentioned systemic laws.[487] In this period MPs did not table questions or interpellations to executive power representatives in the security sector. Parliamentary inquiries were not conducted nor were committees of inquiry set up. The Committee on Defence and Security did not specifically deal with budgetary control in the security sector. Furthermore, it was evident that all bodies from the security sector did not submit reports to the Committee (the Ministry of Defence did not submit a single report in this period), while others did so irregularly.[488] The last, sixth, sitting of the Committee on Defence and Security, held on 25 December 2008, was especially interesting. The Committee mainly discussed the public statement made on this occasion by the Chief of General Staff, Lieutenant-General Zdravko Ponos, who had said that Serbia did not have a defence policy and added that "civilian control is not a holy cow." In the presence of General Ponos, but in the absence of Minister of Defence, Dragan Sutanovac, who had also been invited to the sitting, the Committee discussed the statements made by General Ponos and concluded that "the current situation in the relations between the MoD and Serbian Armed Forces could pose a serious threat to the stability of Serbian defence system and jeopardise the entire civilian control of the Armed Forces." The Committee demanded that the parliamentary chairperson request a report on the state of readiness for the defence of the country from the government.[489]

In 2007 and 2008, parliament adopted the key and long expected laws pertaining to defence and security, and the Committee on Defence and Security was very active. Nevertheless, many competencies were not implemented, mostly those related to budgetary control, control of the Armed Forces and of private security companies. When all circumstances are considered, parliamen-

[487] "Fifth sitting of the second regular session of parliament in 2007" Website of parliament http://www.parlament.sr.gov.yu/content/cir/aktivnosti/skupstinske_detalji.asp?Id=1432&t=A [accessed on 3 September 2008].

[488] We note that, according to the *Law on police*, the MoI is obliged to submit reports to the Committee at least once a year, and more often if necessary. On the other hand, according to parliamentary 'Rules of Procedure', the Committee is to consider only the MoI report submitted upon request of the parliament.

[489] 'Sixth sitting of the Committee on Defence and Security' The parliament of the Republic of Serbia, http://www.parlament.sr.gov.yu/content/lat/aktivnosti/skupstinske_detalji.asp?Id=1707&t=A [accessed on 14 January 2009]

tary practice in the domain of security sector control and oversight in 2007 and 2008 is **awarded a grade 3 (three).**

LEGITIMACY

The legitimacy of parliament can be assessed by analysing public trust and the representativeness of different social and political groups. Unlike institutions such as the church or the military, the public traditionally has not had great trust in parliament. Furthermore, public trust in the institution of parliament has been on a downward trend. According to research conducted in 2008, only 2.2 per cent of citizens fully trust parliament and 4.6 per cent only partly. Total distrust was expressed by 35.3 per cent and partial distrust by 16.4 per cent of citizens.[490] According to a survey conducted in June 2007, only 18 per cent (3 per cent had full trust) of citizens expressed trust in parliament, which is relatively low compared to other institutions like the church (62 per cent), the military (43 per cent), the police (31 per cent), the president (31 per cent), the judiciary (23 per cent) and the prime minister (22 per cent). This is considerably lower compared to 2005 when 27 per cent of citizens trusted parliament (total trust expressed by 4 per cent).[491] There are several reasons for such an alarming lack of public trust. The main reason is the relatively weak role of the parliament in the Serbian political system. The Constitution of Serbia (article 102) introduced the practice of 'blank resignations' by which MPs' terms of office are put at the disposal of the political parties who have supported their election. In case of disagreements with party officials, MPs can be dismissed and political parties can replace them with other party members. Second, political parties, especially ruling ones, still delegate 'the second team' or 'reserve players' to parliament, while top party officials and leaders obtain positions in the executive authorities. Third, in the observed period parliament was often used as a place for expressing libels, insults and for using the language of hatred. Since the sittings are broadcast on state television, it is not surprising that the public does not trust the institution enough. Finally, parliament has not done enough to promote positive outcomes of its work, which contributes to the preservation of the negative image that the parliament has had in the past.

The picture is much brighter when it comes to representativeness. Although there are no binding regulations stipulating the necessary percentage

[490] Though public trust in other state institutions is also low, other security sector institutions have scored higher than parliament. Total or partial trust in the police was expressed by 19.1 per cent of citizens and in the military 25.1 per cent: Resource CESID, 2008.

[491] 'The results of the public poll, June 2007', *CESID*, http://www.cesid.org/articles/download/files/saopstenje%20za%20javnost.doc?id=52 [accessed 3 September 2008).

of women in the parliament, in 2007 and 2008 the percentage of women more than doubled. Until January 2007 only 11 per cent of MPs were women, but when the new parliament was constituted in February 2007 20 per cent of the 250 MPs were women (50). In the most recent parliament the percentage of women increased again. There are 53 women, which represents 23.3 per cent.[492] Although this is still far from the ratio proposed by the OSCE of 30 per cent, it is higher than the global average (18.8 per cent) and European average (21.2 per cent), as well as the ratio of most countries in the region.[493] However, in the new Committee on Defence and Security the representation is unbalanced, as there is only one woman among seventeen MPs (5.8 per cent). The number of MPs who are under the age of 30 has been on the increase, however, there is only one MP under this age in the Committee. With regard to the representation of minority parties, two representatives of parties from Sandzak are on the Committee, but, unfortunately none from the Roma, Hungarian or Albanian ethnic minorities. Political parties are equally represented in the Committee. The opposition representative chairs the Committee and the vice chairperson is a ruling coalition representative. Two women and one man are employed in the administrative department of the Committee. No member from an ethnic minorities is employed in the department.[494]

Due to extremely low public trust in parliament, as well as for the insufficient gender and ethnic representativeness in the Committee on Defence and Security, the legitimacy of parliament has been **awarded grade 2 (two).**

TRANSPARENCY

General transparency of the work of parliament in the observed period has been very good. Parliamentary sittings are broadcast live on the state television. All Committee on Defence and Security sittings are recorded in short-hand and all deputies who are members of the Committee sign a statement on the non-disclosure of classified information obtained in performing security sector control and oversight.[495] During the observed period, only eight complaints were lodged to the Commissioner for the Free Access to Information regarding free access to information of public importance. They were all rejected for formal

[492] 'The list of MPs', Parliament's website http://www.parlament.sr.gov.yu/content/cir/sastav/poslanici.asp [accessed 3 September 2008]

[493] Croatia (20.9 per cent), Bosnia and Herzegovina (11.9 per cent), Montenegro (11.1 per cent), Macedonia (31.7 per cent), Romania (9.4 per cent), Bulgaria (21.4 per cent). 'World Classification', *Women in parliaments,* http://www.ipu.org/wmn-e/classif.htm [accessed 3 September 2008]

[494] Information obtained from parliament on 30 July 2008

[495] 'Druga sednica Odbora za odbranu i bezbednost', *Narodna Skupština Republike Srbije*, http://www.parlament.sr.gov.yu/content/cir/aktivnosti/skupstinske_detalji.asp?Id=1524&t=A [accessed 3 September 2008].

reasons, as the *Law on the free access to information of public interest* (The Official Gazette 120/04 i 54/07) stipulates that complaints on the work of parliament and the other five top executive authorities cannot be lodged to the Commissioner.[496] The Serbian parliament has a high quality and regularly up-dated web presentation containing detailed information on parliamentary and committees activities. Parliament has the capacity to provide timely and efficent information of public interest.

Owing to general transparency of the work of parliament and its committees, this indicator is awarded **the highest grade 5 (five).**

[496] Informacije dobijene od Poverenika za informacije od javnog značaja 4. 8. 2008. godine.

2. The Judiciary

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The courts and public prosecution have two important functions within the security sector. The first is to combat crime by means of prosecution and punishment of criminal offenders. The second is judicial control over executive actors in the security sector. The control function is especially important with regard to police work, though its significance applies to the activities of the intelligence services and the military as well. If these tasks are to be carried out effectively and the entire judicial system is to become efficient, it is essential that a minimum of basic principles, set forth in the Constitution, are fulfilled.[497]

The aim of this chapter is not to provide an analysis of the entire Serbian judiciary reform, but to shed more light on areas reform which are directly linked to the above-mentioned functions of the judiciary in the security sector. In order to get a deeper insight, we first look at the general characteristics of the courts and prosecutors during the 1990s. Then we review organisational and other changes that occured to the security sector after 5 October 2000. Next, we examine aspects of the judiciary and provide recommendations for the improvement of this actor's role in the security sector.

The status of the judiciary in the 1990s

The 1990s saw a serious detorioration of the status of the judiciary, with judicial officials being completely dependent on political power structures. This was partly a consequence of the inadequate position of the judiciary, since judges and prosecutors had been elected by the parliaments (federal and republic), according to the constitutional provisions (The Constitution of FRY from 1992 and The Constitution of the Republic of Serbia from 1990). The mandate of judges in Serbia was permanent, whereas it amounted to nine years in office at the

[497] The Constitution of the Republic of Serbia from 2006 contains a number of principles aimed at securing the independence of courts and judges (the unity of judicial power principle, the independence principle, the principles of legality, transparency of court-trials, immunity, permanence of judges' office, etc.) The Constitution also regulates the High Judicial Council as a body which ensures and guarantees the independence of judges and courts, and stipulates basic rules on the election of judges and termination of judge's office. See articles 142-155 of the Constitution. The principles of independence and organisation of public prosecution are set forth in art. 156-165 of the Constitution.

federation level. In this period, the party in power (SPS with JUL) had a crucial impact in the election and dismissal of judges, and its power over the courts was exercised by executive power and its Ministry of Justice.[498] In both the election and dismissal of judges, the guiding criteria were not professionalism and integrity, but political or party 'allegiance' and loyalty. Climbing the career ladder and receiving various perks and benefits (for instance getting a flat) were mostly conditioned by doing favours to the ruling political elite. For instance, there is clear evidence that the Ministry of Justice alloted flats and favourable bank credits to all judges who had taken part in the electoral frauds in 1996 and 1997.[499]

The influence of the ruling political elites in the work of the judiciary as well as poor material conditions[500] made a large number (one third) of judges quit the judiciary and start a more profitable career as lawyers. By the same token, the judiciary became a fertile ground for corruption. Only those individuals who had no political backing were tried in courts, while law enforcement 'turned a blind eye' to organised crime and other types of crimes that were flourishing at the time. Conversely, the prosecution and judges did not dare to take measures against criminal offenders among the security sector staff. This is illustrated by the fact that the number of individuals convicted for criminal abuse of authority dropped more than three times in six-year period (from 2903 in 1989 to 909 in 1995).[501]

The situation in the military judiciary system was no better. Military court judges were appointed and dismissed by the president of the FRY. Thus appointed judges kept the status of military officers who, by default, could not be independent arbiters in court trials in which the object of protection was the military. These courts were particularly active after NATO bombing in 1999 when approximately 20,000 proceedings were pending on criminal charges for draft evasion.[502] The minimal penalty for draft evasion, after very brief proceedings, was a two-year prison sentence.[503]

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[498] Slobodan Vučetić 'The System of the distribution of power in Serbia and the FRY in the light of forthcoming reforms', *Legal Information Booklet*, No.4 (2001)

[499] Bruno Vekarić, 'Institutional suppression of corruption', in *Openly about corruption- Judiciary,* ed. Radojka Nikolić. (Belgrade: Friedrich Ebert Stifung, 2002), 17.

[500] An average judge's salary in 1998 was 200 DM for municipal court judges, and 250 DM for district court judges. Due to poor financial conditions, 700 judges (one third of a total number) left the judiciary within four years. In Vojin Dimitrijević, ed., *Human rights in Yugoslavia 1998,* (Belgrade: Belgrade Centre for Human Rights, 1999): 216. The salaries at the time were not any better in the entire public administration sector (BM)

[501] *The position of public prosecutors – Statistcal Analysis* (Belgrade: Centre for Peace and Development of Democracy, July 2006): 10.

[502] Vojin Dimitrijević, ed., *Human rights in Yugoslavia 1998*, (Belgrade: Belgrade Centre for Human Rights, 1999): 212.

[503] Dimitrijević, 213.

The 2000 – 2008 period

After 5 October 2000, gradual reform of the judiciary began, culminating in the adoption of the National Judiciary Reform Strategy in 2006.[504] In 2001, parliament adopted five fundamental regulations in relation to the judiciary: the *Law on the organisation of courts*, the *Law on judges*, the *Law on high judicial council*, the *Law on public prosecution* and the *Law on the seats and territorial jurisdiction of courts and Public Prosecutors' Office*, which were published in *The Official Gazette of the Republic of Serbia*, no. 63/2001. The greatest novelty was the formation of the High Judicial Council, which was responsible for proposing the election of judges, presidents of courts, public prosecutors and deputy public prosecutors to parliament, as well as the appointment of lay judges. On the other hand, the Administrative Court and the courts of appeal have not yet been established.

Certain personnel changes were also undertaken. Between 2000 and 2002, 150 out of 165 presidents of courts were changed and 166 new judges were appointed.[505] The financial status of judges improved in 2002 when the *Law on amendments and additions to the Law on court taxes* was adopted, envisaging an independent court budget up to 50 per cent out of total court taxes.

In this period there were strong demands for the lustration of judges and prosecutors, as the majority of the Serbian public was angered by the participation of judges in electoral frauds during the Milosevic regime, by the extremely slow operation of courts, overly lenient penal policy towards criminals connected to the previous regime, as well as by the absence of criminal prosecutions of accountable high-ranking members of the previous regime. The public was especially dissatisfied with poor results achieved in the domain of human rights and protection of freedom, and with the absence of prosecution and conviction of police and intelligence service officers who had participated in the beatings and deaths of hundreds of citizens or had been otherwise connected to the criminal syndicates. Nevertheless, the idea of lustration met with fierce opposition from the judiciary, which claimed independence of the judge's office, thus neglecting their own accountability in the past events. This opposition was strengthened by disagreements within the democratic coalition DOS, one section of which was strongly critical of the Minister of Justice and the advocates of lustration. In the end the idea of lustration was abandoned.

In brief, the changes introduced in the courts and public prosecution, which were carried out by the end of 2002 and afterwards, were far below expectations and real needs. Thus it is not surprising that public trust in the functioning of the judiciary remained at a low level. According to a public poll conducted by CCMR in 2003,[506] 46.9 per cent of citizens stated that they did not trust the judi-

[504] Official Gazette of RS, No. 44/06.

[505] Vekarić,'Institutional suppression of corruption', 17.

[506] *The SaM public on military reform* (Belgrade: CCMR, 2003).

ciary. The biggest problems of the courts were: inefficacy, resulting in the violation of other rights, apart from the right to fair trial; the inefficiency of exisiting legal remedies and the slow execution of court judgements. One of the greatest impediments is the slow pace of the proceedings. There are many reasons for this, including inefficiency and incompetence of judges, deliberate procrastination accompanied by corruption, overburdening with cases and poor working conditions.[507]

The inefficiency of courts is still one of the biggest problems in the judiciary. This confirms the analysis of seventeen judgements passed by the European Court of Human Rights in cases involving Serbian citizens. These judgments clearly show that the prolongation of court proceedings is the central problem which also entails the violation of other human rights, apart from the right to fair trial. In fourteen judgements, out of seventeen, violation of the right to trial within a reasonable period of time was confirmed. The other three cases involved, the violation of the right to the freedom of expression, the right to quiet enjoyment of property and the disregard of the presumption of innocence.[508] The same problem is illustrated by the data on citizens' complaints and petitions regarding the work of the courts. The Department of Complaints and Petitions within the Supreme Court of the Republic of Serbia received 1629 complaints in 2007, out of which 963 were resolved. The public's biggest demand is that court proceedings are sped up.[509]

There is one reason, among many objective reasons for court delays, that is attributable to the neglect of legislative power. The election and dismissal of judicial officials in parliament has been at a standstill since August 2005. As no judge has been dismissed, not even those who fulfilled the requirements for mandatory dismissal due to retirement, new ones cannot be elected. The fact that judges who are due for retirement (but not allowed to carry out judicial duties) are still fully paid, has added to the bad reputation of the judiciary. The reputation has been further damaged by the fact that judges whose dismissal was proposed by the Grand Personnel Council are still in office, due to unconscientious and unprofessional performance. To top it all, although one judge (from the Supreme Court of Serbia), was given a six–month prison sentence for corruption, parliament has not yet terminated his office.

As for the public prosecutors' offices and their reform since 5 October 2000,

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[507] For example: "In the Palace of Justice three judges are still sharing one office and have trials every third day" (The SaM public on military reform, 5); "20 to 30 per cent of their working hours the judges spend in dictating for the minutes", that is, "the judges spend more time on minutes than on judging", *Glas javnosti*, 7 October 2004.

[508] 'We need more efficient legal solutions (Interview with Slavoljub Caric, representative of Serbia at The European Court of Human Rights in Strasbourg)', *Portal Argus*, http://www.korupcija.org/intervjui/8866.html

[509] *Report on the activities of the Supreme Court of Serbia with the summary of the activities of courts with general jurisdiction in the year 2007.*

it is evident that there has been a downward trend in efficiency. Along with the political changes of 2000, changes in quantity and quality of criminal charges submitted to the public prosecutors' offices also occurred. The number of charges increased (quantitative change), but they were very complex and often written off-hand or were used against political opponents in order to disqualify them (qualitative change).[510] The public was under the impression that only those without any political support were charged and tried. That is, those who could not avoid criminal prosecution and conviction.[511] It is a common knowledge that public prosecution can become a powerful tool in the hands of politicians and ruling elites and this could explain the fact why the *Law on public prosecution* has been amended and added to five times in the five years from its adoption in 2001.[512] As the efficiency of the prosecutor's office is of vital importance for the entire criminal judiciary, it is hoped that they will become truly independent bodies and that the state will give full attention to reform.

The adoption of the new Constitution in November 2006 also brought the changes in the judiciary and public prosecution. Instead of one body (the High Judicial Council) that was responsible for the courts and public prosecution, two separate bodies were formed – the High Judicial Council and the State Council of Prosecutors. The new way of electing and appointing judges and prosecutors is also significant. Judges and deputy public prosecutors appointed for the first time are elected by parliament upon recommendation of the High Judicial Council (for a term of three years). The High Judicial Council then appoints judges for the permanent judge's function and decides on termination of office as well. Public Prosecutors are appointed by parliament upon the government's recommendation (for a term of six years), while deputy public prosecutors for permanent office are appointed by the State Council of Prosecutors. These two bodies also decide on the termination of their office. By establishing the Supreme Court of Cassation, in place of the existing Supreme Court of the Republic of Serbia, the new Constitution has stipulated the need for organisational changes in the regular judiciary network. Such changes, along with some innovations which should encourage true reform of the judiciary, are reflected in a new set of judiciary laws, adopted on 22 December 2008 (Official Gazette, No. 116/08). As for the network of regular courts, it consists of (apart from the Supreme Court of Cassation): regular courts, higher courts and courts of appeal that should start working on 1 January 2010. Specialised courts are commercial courts, magistrate courts and administrative courts.

[510] *The position of public prosecutors – statistical analysis* (Belgrade: Centre for Peace and Development of Democracy, July 2006), 7.

[511] *The position of public prosecutors – statistical analysis*, 9.

[512] Momčilo Grubač 'The directions and setbacks of the public prosecution reform in Serbia," *Law and Social Sciences Archive* XCII, No. 3–4 (2006): 1273–1300.

Changes of special interest for the security sector

Of all the changes in the judiciary (in the period 2000-2008), organisational changes have had the greatest relevance for the security sector. The most important organisational changes are: The establishment of the Special Division of Belgrade District Court for Acting in Cases of Criminal Offences with Elements of Organised Crime; the establishment of War Crimes Panel, and; the affilation of the military judiciary to the civilian judiciary.

The Special Division of Belgrade District Court for Acting in Cases of Criminal Offences with Elements of Organised Crime and the Special Prosecutor's Office for Prosecution of the Perpetrators of Criminal Offences with Elements of Organised Crime, were both established on 1 May 2003.[513] In the past few years, their work has been high profile due to the trial of defendants charged with the assassination of Zoran Djindjic and the members of the so-called 'Zemun Clan', as well as a series of indictments raised against the members of the so-called 'bankruptcy, toll-booth and customs crime syndicate', and later against some other crime syndicates as well.

This Division has been granted so-called concentrated jurisdiction, that is, jurisdiction over the entire territory of the Republic of Serbia. This was done because of the nature of organised crime, which is trans-national and trans-regional. The Special Court also tries cases against foreign citizens. For instance, the 'Zemun Clan' used to smuggle drugs from abroad, it had a wide distribution network throughout Serbia, and some members were involved in murders that had been committed outside of Belgrade, (where the crime syndicate was based).[514]

In the first two years of office, the judges of this division handed down 20 judgements,[515] out of which two thirds were final judgements. These judgements were met with public approval and they encouraged renewed trust in the judiciary. One of the human trafficking judgements was handed down in only six days, which is an indication of the high efficiency of this division. For the first time in the history of Serbian judiciary a Supreme Court judge has been convicted for corruption and the proceedings are pending in the case of the Commercial Court president.

The War Crimes Panel at the District Court in Belgrade was established on 1 October 2003.[516] The Panel is competent to rule in the second instance for:

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[513] *The Law on organisation and jurisdiction of state authorities in the supression of organised crime*, Official Gazette of RS, No. 39/03, 67/03 i 29/04

[514] http://arhiva.glas-javnosti.co.yu/arhiva/2006/07/14/srpski/T06071302.shtml

[515] 'The court abolished in secret', *Glas javnosti*
http://arhiva.glas-javnosti.co.yu/arhiva/2006/07/14/srpski/T06071302.shtml

[516] *Law on organisation and jurisdiction of government authorities in court proceedings for war crimes,* Official Gazette, No. 67/03 i 135/04.

- Criminal offences against humanity and international law prescribed in the Penal Code;
- Serious violations of international humanitarian law committed on the territory of former Yugoslavia from 1 January 1991 stated in the Statute of the International Criminal Tribunal for the Former Yugoslavia.

The president of the Court appoints judges to the War Crimes Panel with their consent for a period of four years. The offenders who committed the above-mentioned crimes on the territory of the former SFRY, regardless of their own citizenship or the citizenship of the victims, can also be tried by this Panel.

The military judiciary was put under the jurisdiction of regular courts on 1 January 2005.[517] The military courts, military prosecution and Military Attorney General's Office were abolished. This meant that the so-called 'French model' was adopted, as the jurisdiction of the military courts was transferred to civilian district courts. The public was under a wrong impression that the work of the military courts was conducted in some special way. However, the Penal Code and the Criminal Procedure Code were applied in military courts, the only difference being in their competencies (for criminal offences against the Yugoslav Armed Forces) and the lack of full independence (this issue has already been tackled).

The rationale for this reorganisation was to make court rulings and judgements more independent and purposeful. It is hoped that the forthcoming professionalisation of the Serbian Armed Forces will result in a drop in numbers of perpetrators committing criminal offences against the military, while some offences, such as national military service evasion, will disappear once compulsory military service is abolished. Similarly, there are few cases where specificities regarding proving guilt occur, although this problem can also be solved by appointing a court expert-advisor. It was therefore, decided that it was unnecessary to allot special funds to a specialised military judiciary and that the competencies of this judiciary could be incorporated into the competencies of courts with general jurisdiction.

The control function of the judiciary in the security sector

The strengthening of the control function of the courts over the police, military and intelligence services is one of the key goals of security sector reform. This type of control was very loose before 2000. It must be improved to better

[517] This was accomplished by the *Law on transfer of the military courts, Military Prosecutor's Office and Military Attorney General's Office jurisdictions to the member states' governmental bodies* The official Gazette of SaM, No. 55/04 and by the *Law on the transfer of Military Courts, Military Prosecutor's Office and Military Attorney General's Office jurisdictions,* The Official Gazette of Serbia, No. 137/04.

legally regulate the work of the police, the military and intelligence services, which would in turn strengthen the rule of law. The police and intelligence services have powers to infringe upon certain human rights and these rights are best protected by the judiciary, which must ensure that the exercising of these powers is in compliance with the law. It must also protect individuals against any violation of their rights. The courts should also oversee the military police and other military bodies if they violate the human rights of individuals who are in the 'military domain'. In addition, all public administration actors that are authorised to exercise certain police powers (prison guards, customs officers, fiscal police), including bailiffs, should be under judiciary control.

Judicial control over the police should be comprehensive, as the police not only have a wide range of regular powers in investigating criminal offences and their perpetrators, but also in keeping public law and order, including exclusive power to exert direct coercive measures towards citizens, under conditions stipulated by the law. Similarly, the military should also be closely controlled by the judiciary, especially because of the specifities of military organisation, i.e. its closed and hierarchical structure and the inherent obligation of obedience to superiors, as well as the tendency of this organisation to prioritise its goals over the goals and values of society. The military police, which operates within the military and away from the public eye, exerts all regular police powers towards military staff. Two out of the three intelligence services (the SIA and MoI) have the same (police) powers. The fact that the intelligence services operate in secret, when exercising powers for gathering intelligence by resorting to special investigative measures and mechanisms that temporarily limit certain human rights and freedoms, only adds to the importance of efficient judicial control.

In keeping with the significance of judicial control in the security sector, the courts have a number of control mechanisms at their disposal, the most important being:

- Control by the judiciary (and prosecutors) over the work of the police and the application of their powers in pre-criminal proceedings (particularly the power to search apartments and vehicles, to seize or confiscate objects temporarily, to deprive persons of liberty, the power to detain persons and the power to apply trgeted search measures);
- Approval and control and oversight of the use of special investigative measures and mechanisms for the secret collection of data undertaken by the police and intelligence services (surveillance and other measures which represent a temporary infringement upon guaranteed rights and freedoms);
- Decision-making regarding the liability for the criminal abuse of authority committed by the police, military or intelligence services officers;
- Decision-making regarding the legality of final administrative acts passed by the police or military authorities (administrative disputes);
- Providing judicial (and constitutional-judicial) protection to entities whose rights and freedoms have been violated by unlawful actions of the police,

military or intelligence services;
- Deciding on damages to be paid to citizens and legal entities, caused by the unlawful and improper actions of the police, military or intelligence agencies, and;
- Providing court protection to the police, military or intelligence services officers in case their rights are violated in the institutions where they work, as well as offering protection to other entities working permanently or temporarily in the military.

The basic shortcomings of the judicial control system inherited in 2000 were partly the result of a lack of clear legal competencies and procedures for exercising control. However, it was mostly reluctance on the part of the courts to exercise this control.

Criminal legislation dealt with criminal abuse of authority and the criminal procedural legislation provisions allowed both the courts and public prosecutors to control the actions of the police in pre-criminal proceedings. However, due to excessive political influence, control powers were not exercised and the police ignored judicial or prosecutors' orders, positioning itself to influence the outcome of court preoceedings. In that period, public prosecutors did not dare to bring criminal proceedings against police officers, which resulted in a drastic drop of judgements passed for the criminal abuse of authority. Complaints lodged by citizens for compensation of damages caused to them by unlawful or improper police actions were mostly ignored, not only because of links between the police, prosecutor's offices and the courts, but also because complaints were mostly lodged by members of opposition parties and movements.

As for the control of the military, it seems that the purpose of the military judiciary was not to control the military, but to protect the interests of the military from others (disobedient civilians and perpetrators of criminal offences against the military), whereas the civilian judiciary did not have competencies in this area. Judicial control over the intelligence services (where it was was regulated) was totally non-existant, as it was under the sole authority of the Supreme Court president, who had to comply with, without exception, all requests from the State Security Service for the surveillance of citizens.

Among the first measures undertaken in order to strengthen judicial control after 2000, was the legal regulation of the procedure for authorising the use of special investigative measures and mechanisms by the intelligence services and the police during the secret collection of data, the use of which represents an infringement upon the right to privacy guaranteed by the Constitution. This issue was regulated by the Criminal Procedure Code from 2001, as well as by the *Law on Security Services of FRY* and the *Law on the Security Intelligence Agency* from 2002. Though these legal acts had certain deficiences,[518] they gave the ju-

[518] More about the quality and deficiences of such solutions can be found in the chapter on the intelligence services.

diciary a more significant role than previously, and enabled it to contribute to the protection of rights. This is a significant, although not completely satisfactory improvement.[519]

The number of criminal charges and finalised criminal proceedings in which the liability of the police and intelligence service officers for committing criminal offences related to abuse of authority has considerably increased. This includes the number of judgements concerning compensation of the damages caused to citizens by the unlawful and improper work of the police, the military and the intelligence services. Although most final judgements relate to criminal offences and damages from before 2000, a considerable number of judgements have been passed in recent times (especially in relation to the 'Saber' action). It can be concluded that the judiciary and public prosecution have become more willing to initiate and finalise court proceedings in all cases where security and intelligence staff have broken the law. This is a considerable improvement in the performance of their control function. Nevertheless, totally efficient control is still hampered by the mentioned obstacles in relation to the general evaluation of judicial reform, such as the inefficiency of courts and a lack of guaranteed independence. In this regard, it should be noted that court cases dealing with the liability of security and intelligence staff are typical in terms of exerting influence on prosecution and court rulings, a phenomenon common even in highly developed democracies.

An additional 'issue' typical of such cases is the fact that judgements passed in favour of citizens often entail compensation for damages paid out of the state budget.

International instruments for the protection of human rights have been introduced in order to compensate for weaknesses in the work of the national judiciary. These include violations committed by security and intelligence actors. In Europe, the most important instrument is the European Court of Human Rights, which has passed judgement in many cases of human rights violations by the security and intelligence services. With the ratification of the European Convention on Human Rights (on 26 December 2003), Serbian citizens were granted the right to appeal to the court, whose rulings should also have a positive impact on the work of the national judiciary.

The introduction of the institution of constitutional appeal, stipulated by the 2006 Constitution, is one of the positive changes in judicial control over the security sector. A constitutional appeal may be lodged against individual

[519] For more information, see Momčilo Grubač, 'Special competencies of the criminal prosecution authorities, constitutional rights and freedoms of citizens' and Bogoljub Milosavljević, 'The competencies of the police and other statutory actors for secret collection of data: national regulations and European standards' and in Vučko Mirčić, 'The role of the judiciary in using special investigative measures by different state institutions' in *Democratic control and oversight of using special investigative measures and powers,* eds. Miroslav Hadžić and Predrag Petrović. (Belgrade: CCMR, 2008).

general acts or actions performed by state authorities and organisations exercising delegated public powers which violate or deny human or minority rights and freedoms guaranteed by the Constitution, if other legal remedies for their protection have already been applied or are not specified.[520] It is this latter possibility of constitutional appeal (when other legal remedies for the protection of human rights and freedoms are not specified) that is of special importance for security sector control, as the regular courts have still not provided protection against a considerable number of acts and actions undertaken by the military, intelligence agencies and the police.

Lastly, an important function of the judicial control system should be control of the legality of final administrative acts passed by the military and police. These acts regulate many rights, obligations and legal interests of citizens and legal entities. The same type of legal acts also regulates the rights and duties of the military, police and intelligence services officers. However, dealing with administrative disputes in Serbia suffers from certain weaknesses which should be overcome by the work of the Administrative Court and amendment of legal decisions in administrative disputes. Apart from common inefficiency of the courts, specific problems arise in the cases of administrative complaints lodged by military staff against decisions relating to their rights and duties. When the Supreme Military Court and the Court of the State Union of Serbia and Montenegro (which had been competent for the administrative disputes of military officers) were dissolved, all administrative cases were put under jurisdiction of the Supreme Court of the Republic of Serbia. By the end of 2006, the Administrative Division of the Supreme Court of Serbia received 4605 cases from the Court of the State Union of Serbia and Montenegro (which had never been truly operational) and the Supreme Military Court, all in one single day. In 2007, the number of cases in the Administrative Division of the Supreme Court of Serbia amounted to 26,069 cases.[521] Out of the total number of cases, 9657 (41.6 per cent) were solved, whereas 16,412 (58.8 per cent) remained unsolved. Out of the total number of cases received from the Military Supreme Court and the Court of the State Union of SaM, 975 were solved and 3730 remained unsolved. The conclusions are that the work of this Division is slow, hampered by an overload of cases, and that military officers have a very slow access to justice.

In addition to aspects of judicial control over the security sector, it is important to remember that, apart from the police, military and intelligence services, prisons and detention units should also be under judicial control. This also applies to state administration bodies with certain police powers, such as customs and fiscal police. Human rights violations (as serious as those committed by the military, police or intelligence service) are likely to occur in the work of these

[520] Article 170 of the Constitution of the Republic of Serbia.

[521] *Report on the activities of the Supreme Court of Serbia with an overview of the work of the courts with general jurisdiction in 2007*, p.1.

bodies which are a part of the security sector and possess the powers to use the coercive measures or some other police powers.

THE PACE AND ACHIEVEMENTS OF REFORM

REPRESENTATIVENESS

Representation of women

The representation of women is regulated by the Constitution and the *Law on civil servants* (see analysis of other security system actors) and by the *Labour law* (articles 18-23).[522] On the other hand, gender equality is not mentioned in a single article of the *Law on judges* and the *Law on public prosecutors*.[523]

The representation of women in the judicial system is quite satisfactory although they hold relatively few high-rank positions and are fewer in number than men in criminal councils. Women were court presidents in 61 courts, out of total 146 courts with general jurisdiction and 18 commercial courts, including the Supreme Court of Serbia. In 103 courts the presidents were men (data for 2005).[524]

Grade: **4 (four)**

Representation of Ethnic Minorities

The Constitution provides a detailed list of human rights and freedoms (articles 18-81). Article 76, paragraph 3 stipulates the possibility of passing special regulations and measures to ensure full equality. Article 77 guarantees equality to members of ethnic minorities in administering public affairs and for employment in state bodies, public services, bodies of the autonomous province and local self-government units. Equally, the *Law on civil servants* (articles 7, 9 and 11) and the *Labour Law* (articles 18-23) prohibit discrimination on any grounds. However, the *Law on judges* and the *Law on public prosecutors* do not regulate these issues separately, meaning that general regulations of other laws are applied.

[522] *Labour law,* Official Gazette of RS, No. 24/05, 61/05.

[523] As the laws on the judiciary from 2001 were in force during the observed period, these laws were evaluated and graded.

[524] *Judicial reform index for Serbia* (Washington: ABA/CEELI, 2005), 23.

Members of ethnic minorities are employed in some courts but it was not possible to obtain information regarding their numbers and the functions they perform. One indicator of the unsatisfactory situation is the problem of conducting court proceedings in the Albanian and Hungarian languages.[525]

Grade: 3 (three)

TRANSPARENCY

General Transparency

Apart from the Constitution and the *Law on free access to information of public importance,*[526] procedural laws (the Criminal Procedure Code, Civil Procedure Code, the *Law on enforcement procedure* and the *Law on minor offences procedure*, and others), as well as the *Law on personal data protection*, constitute the legal framework for transparent work of the judiciary. Procedural laws contain provisions stipulating access to information related to court proceedings only to some individuals (e.g., parties in the proceedings and their defence lawyers), or this access is proved by the existence of a 'justified' or 'well-grounded' interest. This type of restrictiveness is justified and conducive to the need for uninterrupted court proceedings and the protection of personal data, though sometimes it hampers access to other information that are not of this type but are of public importance.

According to article 39 of the *Law on free access to information of public importance* and the 'Reference guide for publishing of the Information Bulletin on the work of state authorities', all state and public authorities that this law refers to are obliged to make brochures or booklets in electronic form and to publish them (for instance on the Internet). According to a report issued by the Commissioner for Information of Public Importance for the year 2007, the brochures or booklets were published by the Ministry of Justice, the Supreme Court of Serbia, ten district courts, nineteen municipal courts, one district public prosecutor's office, the War Crimes Prosecutor's Office and eight municipal public prosecutors. The following authorities also made information booklets or brochures, but did not yet published it on-line: six district and 46 municipal courts, the Republic Public Prosecutor's Office, seventeen district and 47 municipal public prosecutor's offices. The Commissioner for Information of Public Importance points out that, despite problems regarding technical resources of the judiciary, the situation is improving and the number of e-brochures published on the authorities'

[525] Index of judicial reform in Serbia

[526] *Law on free Access to Information of Public Importance*, Official Gazette of RS, br. 120/04.

websites is increasing, along with the increased number of brochures or booklets that appeared in print.[527] The public prosecutor's offices and misdemeanours authorities have made considerable progress in this respect since last year.

According to data obtained by the Commissioner for Information of Public Interest, 1396 appeals have been lodged to judicial authorities, out of which 1170 have been accepted, 58 denied and 61 rejected. In 2007, the Commissioner received 237 complaints against judicial authorities, of which 161 complaints were ruled and 76 are on-going. The Commissioner's general observation is that the majority of complaints against the judiciary refer to the judicial budget and capacities, statistical data on specific types of criminal offences, copies of case lists (predominantly criminal cases), proceedings in certain cases and the fulfilment of certain pre-requisites for some judges.

In 2007, the Supreme Court of Serbia issued 250 press releases, organised three press conferences and published thirteen interviews with the Court president. On average, approximately 200 stories on the work of the Supreme Court are published daily in weekly and daily newspapers and on-line. Four persons are authorised at the Supreme Court to deal with appeals and complaints of citizens, persuant to the *Law on free access to the information of public importance*. In 2007, 93 persons lodged appeals to the Supreme Court of Serbia, of which 80 were fully accepted, nine partly and four were rejected. All appeals were dealt with within the legal deadline of 15 days, that is, within 40 days from the date when the appeal was lodged.

Grade: 3 (three)

Financial Transparency

The report on the execution of budgets of courts and public prosecutor's offices for 2007 has been published on the Ministry of Justice's web-site, but has not been considered by parliament, nor has it been the subject of an independent audit. According to this report, total budgetary funds alloted to judicial bodies amounted to RSD 1,637,789,000, and tax revenues amounted to RSD 3,906,334,018. The largest share was alloted to municipal courts (the largest in number), then to district courts and to the Supreme Court of Serbia. With regard to public prosecutor's offices, municipal public prosecutor's offices were alloted the biggest funds, then district offices and finally, the Republic Public Prosecutor's Office.

Grade: 3 (three)

[527] *Report on the implementation of the Law on free access to information of public importance, 2007.*

PARTICIPATION OF CITIZENS AND CIVIL SOCIETY ORGANISATIONS

Participation in Policy-Making (strategic and legal framework)

According to article 77 of the *Law on state administration,*[528] ministries and special organisations are obliged to undertake public debate during the preparation of a law which changes the legal regime in one area or which regulates issues of particular relevance for the public. It has already been mentioned that during 2008 (on 22 December), new laws on the judiciary were adopted and public debate on these laws was organised. Although the laws in question did change the legal regime and did regulate issues of particular public relevance, the public was not included in the debate. The dialogue was held mostly between judges and Ministry of Justice officials. The public was left behind.

Grade: 2 (two)

Participation in implementation and evaluation of policy

Public and civil society organisations generally have very limited influence on the implementation and evaluation of security sector reform policies, except for the right granted by the constitution to lodge proposals or petitions, or on rare occassions when the Minister of Justice receives telephone messages from citizens and answers their questions (this occurred only once in 2007). On the other hand, civil society organisations (CSOs), particularly non-governmental organisations dealing with human rights, have tried to draw attention to shortcomings in the work of the judiciary, especially regarding the protection of citizens' rights, freedoms in courts and the prolonged duration of court proceedings. However, the judiciary and executive authorities have hardly reacted to initiatives, proposals and evaluations coming from CSOs.

Grade: 3 (three)

[528] Official gazette of RS, No. 79/05 i 101/07.

ACCOUNTABILITY – DEMOCRATIC CIVIL CONTROL AND PUBLIC Control and oversight

Control by the executive authorities

Within the Ministry of Justice operates the Court Control Division (part of the Sector for the Judiciary and Minor Offences) which deals with judicial administrative activities. The Division monitors whether court cases are dealt with within prescribed deadlines and how public complaints and petitions are dealt with.[529] After an assessment has been conducted, the Division sends a report to the president of the court in question, the president of the next instance court and to the president of the Supreme Court of Serbia. The deadline for rectifying detected shortcomings is fifteen days, and the deadline for submitting a report on the measures undertaken is eight days.

Internal organisation and work of the courts are regulated by the Court Rules of Procedure[530] issued by the Minister of Justice, upon approval of the president of the Supreme Court of Serbia. According to article 2 of the Rules, internal organisation and the work of courts (court administration) are separate from court trials and include administrative, technical, professional, informational, financial and other affairs relevant to the judiciary. The court president is in charge of implementation of the Rules, while the Ministry of Justice oversees its implementation. According to article 4 of the Rules, the Ministry, via a supervisor, controls affairs related to court administration, office management within courts and other activities related to internal organisation and the work of courts. The supervisor collects reports written by the court president or exercises direct supervision. The Supervisory Divison has eight executives, including a head of the Division.

The control and oversight exercised by the Ministry of Justice, despite its positive impact, has had made little progress in the most significant domain; courts actions within the deadlines stipulated by the law, regardless of cirumstances. This is a huge problem for the Serbian judiciary.

Grade: 2 (two)

[529] *Law on organisation of courts, article 66 and 71,* Official Gazette of RS, No. 63/01, 42/02, 27/03, 29/04, 101/05, 46/06.

[530] *Court Rules of Procedure,* Official Gazette of RS, No. 65/03, 115/05, 4/06.

Parliamentary control and control and oversight

Parliamentary control and oversight is carried out by the Justice and Administration Committee. The competencies of the Committee are stipulated in article 48 of the parliamentary Rules of Procedure.[531] The Committee considers bills, proposals, regulations and other issues in the field of organisation of judicial authorities and actions taken by such authorities and magistrates such as enforcement of sentences, international legal aid, organisation and work of government agencies and performance of public duties, organisation of administrative bodies, the electoral system, and the association of citizens. The Committee gives its opinion on the appointment of presiding court judges, of public prosecutors and deputy public prosecutors and of other judicial and administrative officials foreseen by law. It also proposes decisions on the termination of their office, or dismissal. The Chairman of the Committee is a member of the High Judicial Council and the Committee is made up of seventeen members. Committee members do not have the right of access to court decisions ordering the implementation of special investigative techniques nor are such data submitted to Committee members or the public for review. In 2007, the Justice and Administration Committe held twelve sittings. The Ministry of Justice has not yet submitted the report on its work to the Committee.

Parliament influences the work of the judiciary by providing a legal framework (regulation of the organisation and competencies of judicial bodies, court proceedings, the position of judicial officials, and other matters), as well as by appointing and dismissing judges and public prosecutors upon the proposal of the High Judicial Council. Members of Parliament also vote on judicial officials' stripping of immunity. The unreasonable delays in parliament's work on decisions regarding the dismissal and election of judicial officials has been mentioned earlier.

Grade: 2 (two)

Judicial Control

The control of lower-instance courts and their conduct in matters which are within judicial competence is carried out solely by means of procedures in cases of regular and extraordinary legal remedies in higher-instance courts, which means that no other authority can change court decisions (the principle of independence of judicial authority). According to data on the review of court rulings, higher-instance courts confirm about 60 per cent of lower-instance court rulings, while the other 40 per cent are either rejected or reconsidered. On the

[531] *Parliament's Rules of Procedure,* Official Gazette of RS, No.56/05 – new version and 81/06.

other hand, within the judicial system there is a system of internal control which is of great relevance to the proper functioning of courts. The court president is responsible for the regular and proper work of the court and is authorised to demand lawfulness, order and timeliness in court, to correct irregularities and to make sure that independence of judges and respect of the court are maintained. As the court system is based on hierarchy, a higher-instance court president is authorised to control the court administration of a lower-instance court, to demand information on the implementation of regulations and problems occuring during court trials, request data on the work of the lower-instance court, and to order direct inspection of the court's activities. The president of the highest court in the country also holds the most responsible for the condition of the judiciary.

Public appeals are one means that court presidents' can use to correct irregularities in the work of judges. When a party or another participant in the proceedings files an appeal, the court president is obliged to consider it and to inform the appellant if the appeal is considered grounded and what measures will be taken with regard to it within fifteen days from the date when the appeal was received. If the appeal is filed via the Ministry of Justice or a higher-instance court, both the Minister of Justice and the president of a higher-instance court are notified whether there are grounds for the appeal or not. In 2007, the Department for Complaints and Petitions at the Supreme Court of Serbia received 1629 complaints and appeals. Of this number, 963 cases were solved and 82 were transferred from 2006. The Court President considered and ruled in 584 appeals, while 82 cases were still being processed. The majority of requests were for court proceedings to be sped up. Therefore, it can be concluded that a major shortcoming is delays in court proceedings

The Supervisory Board, set up at the Supreme Court of Serbia, also has an important role in securing the regularity of work of lower-instance courts. In 2007, the Board received 1835 cases. With 1624 cases transfered from 2006, it dealt with 3459 cases. Less than half the cases (1703) were solved, while 1756 remained unsolved. The Supervisory Board held 35 sessions where decisions were made about the grounds for complaints, based on reports submitted by presidents of courts. In case of incomplete reports, new ones were requested, and the Board also requested insight into a large number of court cases. Once court case control is finished, the Board may initiate before the Grand Personnel Council a procedure for dismissal of a judge on the grounds of unconscientious or unprofessional performance of duty or it may propose disciplinary measures.

Grade: 2 (two)

Public control and oversight

The function of the Commissioner for Information of Public Importance has already been described (see the section on transparency). The ombudsperson is not authorised to control the work of the judiciary and in 2007 his office received 119 complaints (29.3 per cent of the total number of complaints) concerning the work of judicial authorities.[532] The complaints were lodged against: The public prosecutor's office, two complaints (0.5 per cent); non-enforcement of court rulings, seventeen (4.2 per cent); violation of right to a fair trial, seventy (17.2 per cent); violation of right to legal protection, eleven (2.7 per cent), and; right to a trial within a reasonable period of time, thirteen complaints (3.2 per cent).

The Committee on the Prevention of Conflict of Interests has no competencies over judicial officials. The *Law on prevention of conflict of interests in discharge of public office*[533] (article 2, paragraph 2) stipulates that conflict of interest for judges, public prosecutors and deputy public prosecutors will be regulated by special laws. There is an act which regulates the inventory and control of property owned by judges and prosecutors working in special organisational units for the suppression of organised crime.[534]

Grade: 2 (two)

RULE OF LAW

Legal state (Rechstaat)

The status of judicial power is regulated by the Constitution (articles 142-155). The separate and independent work of judges and courts, the permanence of judges' tenure of office, non-transferability of judges and other modern principles on which judicial power in democratic systems is based, are guaranteed in the Constitution. Judicial power is unique and belongs to courts of general and special jurisdiction, whose establishment, organisation and jurisdiction are regulated by the law. The establishment of provisional courts, courts martial or special courts is strictly prohibited. The establishment of the High Judicial Council, which shall guarantee the independence of judges and courts, is prescribed.

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[532] *The Ombudsman's Report for 2007, 29*

[533] Official Gazette of RS, No. 43/04.

[534] Decree on making lists of property of persons working in or performing a function in special units from the *Law on organisation and jurisdiction of government authorities in suppression of organised crime,*Official Gazette of RS, No 72/03.

The status of the Public Prosecutor's Office is regulated by the Constitution (articles 156-165). The Public Prosecutor's Office is an independent state authority which is authorised to prosecute perpetrators of criminal offences and other punishable actions, and take measures to protect constutionality and legality. The Public Prosecutor's Office performs its function according to the Constitution, ratified international treaties and regulations. The State Prosecutor's Council protects the independence of Public Prosecutor's Office.

In 2001, parliament passed a set of reform laws on the judiciary (*Law on organisation of courts, Law on judges, Law on High Judicial Council, Law on Public Prosecutor's Office, Law on the seats and territorial jurisdiction of courts and Public Prosecutor's Office* and *Law on the State Prosecutorial Council*). However, the most important reform measures prescribed by these laws have not been realised in the past seven years. In accordance with the *Constitutional Act on the implementation of the Constitution of the Republic of Serbia*, at the very end of 2008 new judicial laws were passed (*Law on organisation of courts, Law on judges, Law on High Judicial Council, Law on Public Prosecutor's Office, Law on the seats and territorial jurisdiction of courts and Public Prosecutor's Office* and *Law on the State Prosecutorial Council*). Parliament should elect the members of the High Judicial Council and State Prosecutorial Council within three months. Most provisions contained in the laws will be in effect from 1 January 2010.

A long-term goal of all countries in transition is the rule of law, in particular the fundamental requirement of this principle that the judiciary must be truly independent of other authorities. Serbia has made some progress in this area, but there is still work to be done. Nevertheless, progress is now more visible on a regulatory than on a practical level, and to make it more substantial will require real and continued efforts of all three branches of state authority, including civil society organisations. In this regard, it is vital that judicial officials realise that their independence does not imply only that they are free from unlawful influences and that they have autonomy in using the court budget, but primarily that they should be fully accountable for lawful, professional and regular performance. Such performance of judge's function is fundamental for the respect of the rule of law in the activities of all security sector actors.

Grade: 3 (three)

Protection of human rights

The Constitution of the Republic of Serbia, as has already been mentioned, contains a long list of human and minority rights and freedoms and regulates the mechanisms for their protection. Judicial protection of these rights is a primary form of protection, meaning that any person has the right to this protection if his or her human or minority rights guaranteed by the Constitution have been

violated or denied, as well as the right to elimination of consequences arising from the violation (article 22 of the Constitution). If security sector reform is to make any progress, it is important that judicial protection of human rights is effective in all cases of human rights violations committed by the police, military, intelligence services and other security system actors. As stated earlier, some progress is evident, but it still does not match real needs. If the courts are to become a truly reliable instrument of human rights protection, they must become aware of the value of human rights and that they are the main protector of these rights. This awareness must be shared by all judicial officials. Certain obstacles to more efficient judicial protection of human rights have also been discussed, as well as the general shortcomings of courts in this area of their work.

Grade: 2 (two)

EFFICIENCY

Serbia has about 2300 judges[535] working in all courts, and over 18,000 other judicial personnel. In 2007, there were eight judges fewer in the Supreme Court of Serbia than in 2006. While representatives of the judiciary frequently claim that the number of judges is insufficient and that they are overloaded with work. However representatives of executive authorities and the public often remark that the number of judges in Serbia exceeds the number of judges in other countries with a similar size of population, and that there are many judges whose performance is unprofessional and unconscientious. It is also true that there are certain duties and functions which are currently under the jurisdiction of the judiciary but which could be performed by other, non-judiciary authorities (for instance by notaries). The total number of public prosecutors and deputies in Serbia is nearly 1000.[536]

Criteria for measuring judges' professionalism and dilligence are: The number of court cases processed by each judge; the type and complexity of cases; the number of cases that each judge should process on a monthly basis; the number of dismissed, confirmed or reversed decisions or rulings; the number of cases where a hearing was held before a second-instance court based on an appeal filed against the ruling of the first-instance court; the time taken to pass a ruling; timely and efficient processing of cases, and; conduct with involved

[535] 'Constitutional status of the judiciary: Constitutional principles, structure and status of courts and judges', Serbian Association of Judges http://www.sudije.org.yu/static_content/forum/public/481971887437 [accessed 28 July 2007]

[536] *The status of public prosecutors – statistical analysis* (Belgrade:Centre for Peace and Development of Democracy, July 2006), 12.

parties.[537]

The Judicial Training Centre was established in 2001, to provide continuous professional training for judicial officials. The Centre has trained nearly 15,000 people; approximately 2400 judges, over 700 prosecutors and deputies, around 1000 officials elected for the first time, court and prosecutors' assistants and advisors, and nearly 11,000 employees of the judicial administration. The *Law on training of judges, public prosecutors and deputy public prosecutors and court and prosecutor's assistants* regulates the type and manner of training. According to the plan of the National Judicial Reform Strategy, the Judicial Training Centre will be reorganised by establishing the National Judicial Training System.

Grade: 2 (two)

EFFECTIVNESS

Integratedness

The principle of uniqueness of judicial power is set forth as a basic principle of the organisation and functioning of this branch of state authority (article 142, paragraph 1). It provides a clear division of jurisdiction among courts. It also means that the relationship between lower and higher instance courts is regulated, and that the harmonising of law implementation is obligatory. The establishment, jurisdiction, structure and organisation of the courts are stipulated by law. Courts are permanent institutions established by law and provisional courts, special courts or courts martial cannot be established. The Constitution regulates the highest court of the Republic of Serbia – The Supreme Court of Cassation, whereas the regulation of other courts (courts of general jurisdiction and special courts) is in the domain of legislation.

At the onset of reforms, the inherited judicial system was deemed inadequate. As early as 2001, a law was adopted which redefined the organisation and jurisdiction of the courts (by introducing of courts of appeal, the Administrative Court, and by changing the jurisdictions of all courts). The *Law on minor offences*, adopted in 2005, stipulated that new magistrate courts would replace the current authorities for minor offences. However, the reorganisation of court system had not been carried out until the adoption of the new Constitution, and new laws on court organisation and jurisdictions were passed by the end of 2008. In the meantime (2006), the National Judiciary Reform Strategy was

[537] Criteria for measuring minimum effectivness of performing judicial duites which is in effect temporarily until the provisions of articles 21-28 of the *Law on organisation of courts* are enforced, Official Gazette of RS, No. 80/05, art. 1.

launched,[538] aimed at reform of the entire judicial system. However, implementation of the Strategy has been slow, with the result that the goals of reform have been fully realised on a regulatory level, rather than in practice.

Grade: 2 (two)

The ratio between aims, resources and outcomes

Most of the goals set out in the National Judicial Reform Strategy (the completion of which was planned for the end of 2007 and 2008) have not been reached. The High Judicial Council and State Prosecutors Council have not been established because new laws on the judicial system have not been adopted. The realisation of other goals was blocked (such as transfering the competencies of the Grand Personnel Council and the Supervisory Board at the Supreme Court of Serbia to the High Judicial Council. Also the formation of a transitional budget model, in which the High Judicial Council is supposed to participate). Similarly, goals for more efficient and active participation of public prosecutors in investigations, which would contribute to more efficient criminal proceedings, are also not realised because implementation of the new Criminal Procedure Code is constantly being postponed. At the same time, a new law which would establish a uniform system of legal aid has not been passed.

Contrary to the goals which were not realised due to the lack of appropriate legislation, two goals set in the National Judicial Reform Strategy were partly realised. First, transparency has improved by adopting rules and procedures which enable broader public insight of the public into court proceedings and decisions. This was achieved by posting selected decisions of the Supreme Court on the institution's website. Second, information desks were set up in some courts, where citizens can get over 10,000 pieces of information each month.[539] On the other hand, an information desk or a Public Relations Office at the High Judicial Council have not been set up.

The lack of legislative activity in parliament and of funding are considered the most important factors preventing the achievement of these goals of judicial reform. Delays in the implementation of reforms are also caused by predictable resistance within the judicial system to changes and innovations of the existing status.

Grade: 2 (two)

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[538] *National Judicial Reform Strategy,* Official Gazette of RS 44/06.

[539] Golubović, 20.

Legitimacy

In terms of public trust, the legitimacy of courts appears to be rather low, as 61 per cent of citizens have a negative impression of the judiciary.[540] This negative attitude is partly a reflection of the previous regime (up to 2000). The public continues to doubt that all citizens are equal in court. It believes that some people are privileged and others are not, and that the road to justice is very hard and complicated. Of special significance for this analysis is the attitude of a large number of citizens that courts and public prosecutors are not willing enough to protect citizens when their rights have been violated by state authorities, especially those that represent the apparatus of force. In addition, the judiciary receives a poor score in terms of the public's attitude with regard to corruption of state institutions.

[540] Mirjana Golubović, *Public relations in courts* (Belgrade: Secretariat for the Implementation of National Judicial Reform Strategy , 2007), 8.

3. Prisons

Bogoljub Milosavljević i Jelena Unijat

Prisons are security system actors for two reasons. *First,* prisons are charged with the responsibility of resocialising convicts, namely teaching them respect for social norms and preparing them for life in the community after they complete their sentence.[541] Prisons can therefore contribute to security situation if inmates, or at least a large majority of them, are able to successfully integrate into the community and not recommit crime. Considering high recidivism rates (65 per cent), it is debatable to what extent this is achieved in Serbia.

Second, all prison inmates must be protected from torture, and they must be treated humanely by prison administration and prison staff. Humane treatment of prisoners and detainees in prisons means that rules must be strictly respected with regard to the use of instruments of force and disciplinary measures, and external control and oversight and control must be in place. Moreover, prison authorities must ensure personal safety and health of prison inmates and prevent any conflicts and violence among them. They must prevent suicide attempts or self-injury, use of drugs and other behaviour that compromises personal safety and health. Finally, prisons should be 'safe places'; there should be no riots and escapes, and should not be a places to plan or commit criminal offences. The situation in Serbia, however, does not meet these requirements, as will be shown below.

A general overview of prisons in Serbia

The legal framework for the treatment of prisoners and detainees in prisons is provided by the Constitution, the *Law on execution of criminal sanctions,* the Criminal Procedure Code, and in some specific laws and by-laws. The Constitution prohibits discrimination and torture and proclaims a number of rights related to the position of persons deprived of liberty (article 27–35). Article 28 of the Constitution specifically provides that persons deprived of liberty must be treated humanely and with respect to the dignity of their person. It prohibits violence towards such persons, as well as extorting statements from them. Any sentence which includes deprivation of liberty may be proclaimed solely by the court (article 27, paragraph 4). A person may be remanded to detention only

[541] Resocalisation as the purpose of serving the sentence of imprisonment replaced the old 'personal reform' approach that prevailed during socialism. The remnants of the old approach, however, are yet to be eliminated in a thorough reform process.

upon the decision of the court, and if the detainee has not been questioned the decision on detention is made, the detainee must be brought before the competent court within 48 hours. All detainees are entitled to lodge appeal against the court decision on detention and the court shall decide on such appeals and service it detainees within 48 hours (article 30). On the whole, constitutional provisions offer a modern general legal framework for treatment of sentenced and untried prison inmates in compliance with the European Convention on Human Rights and other international documents.

The current *Law on execution of criminal sanctions* (henceforth LECS) was adopted in 2005.[542] It resulted from the firm commitment to introduce reforms and establish a modern system for the execution of sanctions in line with European standards. The law introduces a system of alternative punishments, such as community work and probation. Similar guiding principles were applied for the execution of criminal sanctions for minors in the *Law on minor perpetrators of criminal offences and criminal-law protection of juveniles*.[543] Both these laws came into force on 1 January 2006 but their full implementation (implementation of their essential elements) will take time. This is especially true for evaluating the effects of their implementation. In order to shorten the required time, it is important to meet certain material, personnel, spatial and other requirements necessary for the introduction of crucial novelties. In this regard it should be highlighted that it is almost inexplicable that the drafting of by-laws for the implementation of these laws takes such a long time. This is perhaps a sign of a lack of commitment from the executive branch of government. Some of these legal acts can be disputed even in regard with their compliance with the Constitution.

In respect to organisational structure, prisons fall under the Administration for Execution of Penitentiary Sanctions within the Ministry of Justice. Serbia has 28 prison and detention facilities:

- Eight penitentiary-correctional institutions (one of which is of a strict prison type – KPZ in Požarevac/Zabela; three of which are of a prison type – KPZ in Sremska Mitrovica, KPZ in Niš, and KPZ for minors in Valjevo; four are open prisions – KPZ in Belgrade/Padinska Skela, KPZ in Sombor, KPZ in Ćuprija, and KPZ in Šabac);
- Three special institutions (Penitentiary Hospital in Belgrade, Correctional Facility in Kruševac (semi-open), and Penitentiary-Correctional Institution for Women in Požarevac (semi-open), and;
- 70 county prisons.[544]

According to local criteria, Serbia has suitable accommodation for about

[542] Official Gazette of RS, No. 85/05.

[543] Official Gazette of RS, No. 85/05.

[544] In Belgrade, Vranje, Zaječar, Zrenjanin, Kragujevac, Kraljevo, Kruševac, Leskovac, Negotiu, Novi Pazar, Novi Sad, Pančevo, Prokuplje, Smederevo, Subotica, Užice, and Čačak.

6000 persons. According to European Union standards (four square metres and eight cubic metres per a prisoner), however, only about 4500 prisoners could be accommodated.[545] In 2007, Serbian prisons held 8532 inmates, of which 6057 were sentenced individuals, 1863 were detainees, and 212 persons had sentences for minor offence.[546] There are 168 underage persons placed under rehabilitative treatment, 35 of which served sentences in juvenile prisons. In specialised institutions, treatment is provided for 509 persons who have required security measures of mandatory psychiatric treatment and confinement. A total of 187 convicted women served their sentence in the Penitentiary-Correctional Institution for Women. The average age of prisoners is below 30. By the end of 2008, the number of convicts and detainees rose by approximately 1700. Due to this overcrowding[547] some convicted individuals have had the start of their sentence delayed. Since 2003 the prison numbers have been increasing each year by approximately 1000. The total prison population has grown by 60 per cent in the past five years. Daily fluctuations (admission to and discharge from prisons) amount to between 250 and 300 and between 5500 and 6000 convicted persons are now waiting to serve their imprisonment sentences in Serbia. One solution is alternative sanctions and simplifying conditional release procedures on the one hand, and building new prison facilities on the other. Two years ago a special purpose facility was built in Zabela to accommodate individuals convicted for organised crime offences and war crimes (capacity 150–200 convicts).[548] Construction of a maximum-security prison in Padinska Skela for about 450 prisoners is expected to be completed before the autumn of 2009. There are also plans to build facilities in Prokuplje, Pančevo, Kragujevac and Kruševac, each with the capacity to accommodate 400 to 500 prisoners.[549]

The Administration for Execution of Penitentiary Sanctions employs 3687 persons to work with different categories of sentenced and detained persons. However, at least a thousand more guards are needed than the 2200 at present. The conclusion would be that this administration most likely has redundancy of other staff.

The Administration for Execution of Penitentiary Sanctions is a major item

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[545] 'Interview of Damir Joka, Head of the Department for Treatment and Alternative Sanctions in the Administration for Execution of Penitentiary Sanctions within the Ministry of Justice," *Politika,* 8 February 2009, 12–13.

[546] Ministry of Justice, http://mpravde.mvcore.net/active/sr-latin/home/zatvori/statistika_zatvori.html, [accessed on 6 December 2007]

[547] For example, the number of convicted and detained persons in KPZ Niš exceeds the optimum capacity by about 500 (statement of the Director of KPZ Niš, *Politika,* 8 February 2009, 12).

[548] This facility is still not being used since it is necessary to first adopt amendments to the law to provide for the possibility of serving sentences in special prison departments.

[549] 'Interview of Damir Joka, Head of the Department for Treatment and Alternative Sanctions in the Administration for Execution of Penitentiary Sanctions within the Ministry of Justice," *Politika,* 8 February 8 2009, 12–13.

in the state budget. It is calculated that a prisoner costs the state a minimum RSD 1000 a day. Minor prisoners cost around RSD 5000 a day.[550] Shortages in the funds needed to support prisoners are partly offset by some economic activity organised in prisons. Most prisons have their own cattle farms and arable land for cultivating vegetables. In some prisons prisoners produce small craft products and some have their own production plants ('Deligrad' in Niš, 'Preporod' in Zabela, 'Dubrava' in Sremska Mitrovica). Although this production has little economic value (because it is not competitive on the market), it has retained an educational purpose (enabling prisoners to find a job more easily once they leave the prison).[551]

Some problems, as well as progress made in the reform process, are presented below (for each of the indicators).

PACE AND ACHIEVEMENTS OF REFORM

REPRESENTATIVENESS

Representativeness of women

The Constitution of the Republic of Serbia and the laws defining the prohibition of discrimination (the *Law on civil servants* and the *Labour law*) deal with gender equality in respect to employment in the prison service. In the case of employment of prison guard, there are no special dilemmas related to gender equality considering that only women can work in the security service of female prisons and only men can work in male prisons. The issue of women representativeness, however, becomes an issue when looking at promotion policy, leadership positions, and the recruitment of women for other services. Regrettably, we could not obtain information and the grade attributed to this criterion is strictly conditional.

Grade: 4 (four)

Representativeness of ethnic minorities

The Constitution and relevant laws (the *Law on civil servants* and the *Labour law*) define obligations regarding ethnic representation within government authori-

[550] Interview, 12-13.

[551] Interview, 12-13.

ties, as well as the possibility of introducing affirmative action arrangements to achieve appropriate representativeness of members of ethnic minorities. Such arrangements, however, do not exist. Considering that data on ethnic affiliation of individuals employed in the Administration for Execution of Penitentiary Sanctions could not be obtained, the grade here is also conditional.

Grade: 3 (three)

TRANSPARENCY

General transparency

Operational transparency is obliged by the Constitution and the *Law on free access to information of public importance*.[552] Based on this law, the Commissioner passed the 'Reference guide for publishing of the Information Bulletin on the work of state authorities',[553] and subsequently a law implementation manual 'A guide through the law'[554] published in Serbian and six languages of ethnic minorities. Nine complaints were submitted to the Commissioner against the Ministry of Justice's Administration for Execution of Penitentiary Sanctions. Eight were resolved and one is still pending. In relation to the submitted complaints, the Commissioner issued three administrative orders for access to information be allowed. In two of these cases there was full compliance and in one compliance was partial. In other cases the procedure was discontinued because the requests were fully complied with after the complaints were submitted and intervention from the Commissioner. In general, the requests concerned access to (or receiving copies of) documents relevant for individual prisoners, in connection to treatment, health care, and exercising rights (such as voting).

Transparency is specifically provided for in the *Law on the execution of penal sanctions*. Article 29 prescribes that the operation of the Administration for Execution of Penitentiary Sanctions shall be publicly visible. The Ministry of Justice's website, in the section dealing with the operations of this Administration, offers sufficient information and is regularly updated. The Minister of Justice and the Director of the Administration, whether directly or indirectly through the directors of prisons, inform the public about execution of sanctions if by doing it they do not prejudice professional secrecy or seriously imperil the safety or peace and order in the facility. Article 30 of the law prescribes that individual or group

[552] *Law on free access to information of public importance*, Official Gazette of RS, No. 120/04.

[553] *Instructions for the publication of Information Booklet on the operation of government authorities*, Official Gazette of RS, No. 57/05.

[554] *Guide through the law*, Official Gazette of RS, Nos. 67/05 and 74/06.

visits can be granted by the director of the Administration. Visitors are allowed to talk with an inmate with or without the presence of prison guards.

The Administration for Execution of Penitentiary Sanctions is under obligation to submit its annual progress reports to parliament, the competent parliamentary working body, and the Minister of Justice. Reports on the operation of the Administration for Execution of Penitentiary Sanctions were publicly presented in 2007 and 2008.[555]

Grade: 3 (three)

Financial transparency

Although competent authorities and the public are allowed access to data on the budget of the Administration for Execution of Penitentiary Sanctions, as well as data on other budget beneficiaries, parliament has not considered the budgetary final accounts in the past several years. Moreover, because of delays with the State Audit Institution, an independent external audit of spending has not been carried out. This audit is even more important in view of the fact that prisons are being allocated considerable funds from the budget. Thus, during 2007 alone, RSD 80 million were allocated from the National Investment Plan for the construction of a Drug Free Department. The same funds are used for the construction of two annexes to the Sremska Mitrovica facility for which three million euros will be allocated.[556] RSD 160 million was invested in a special prison unit constructed for prisoners convicted for organised crime offences and war crimes.[557] In addition, prisons obtain some proceeds from the work done by the prisoners; control and oversight of their financial operations is important from this aspect too. This is especially important considering that this aspect of prisons' business is regulated by a law (*Law on organisation of business units within the facilities for execution of penal sanctions*[558]). This law was adopted during a time when different rules of business prevailed and the criteria for operational transparency were much lower.

Grade: 2 (two)

[555] 'Annual report of the administration for the execution of penitentiary sanctions', *Danas*, 6 July 2007, http://www.danas.co.yu/20070706/hronika1.html, [accessed 31 July 2008]

[556] 'Investicije u zatvore', *B92*, http://www.b92.net/info/komentari.php?nav_id=268271 [accessed 17 October 2007]

[557] 'Osuđene za ubistvo Đinđića čeka novi zatvor', *Glas javnosti*, http://www.glas javnosti.co.yu/danas/srpski/T07052402.shtml [accessed 20 July 2008]

[558] Official Gazette of RS, No. 12/98.

PARTICIPATION OF CITIZENS AND THEIR ASSOCIATIONS

Participation in policy creation (strategic and legal framework)

As in other fields, the possibilities for public participation and their associations in policy creation are relatively few, or underdeveloped. Moreover, in 2007 and 2008 the legal procedure saw no regulations which would bring any major change to the operation of the Administration for Execution of Penitentiary Sanctions, or the position of prisoners. Nevertheless, the issues related to penitentiary sanctions are a focal point of interest for a number of professional associations and these associations often initiate or propose changes considered by the competent Ministry.

Grade: 2 (two)

Participation in policy implementation and evaluation

Similiarly, except through motions and petitions, the public does not have many opportunities to influence the implementation and evaluation of policy application. However, citizens' associations, and particularly non-governmental organisations involved in the protection of human rights, as well as media, have attempted to draw attention to deficiencies in the sentencing system, particularly by drawing attention to the position of detained persons and convicts. However, public initiatives, motions, and assessments are generally met with silence from the executive government and judicial authorities. In contrast, the media has demonstrated that it is a more powerful means for exerting influence.

Grade: 2 (two)

ACCOUNTABILITY – DEMOCRATIC CIVILIAN CONTROL AND PUBLIC Control and oversight

Controlling role of the executive branch of government

As part of the public administration system, the Administration for Execution of Penitentiary Sanctions is under the control and influence of the government. The director of the Administration is accountable directly to the Minister of Justice. An Control and oversight Department has been set up within the Administration to oversee the operation of penitentiary institutions, control planning and operation of all services and employees of penitentiary institutions propose remedies for any observed flaws and control its implementation. Based on the control and oversight that was carried out, the Department analyses and evaluates the functioning of the penitentiary, supervises the implementation of the treatment service's plan and programmes, orders measures to improve and ensure uniformity of the work on treatment of sentenced persons, oversees the classification and reclassification of convicts, oversees the way in which facilities ensure safety and organise their security services, oversees physical and working capability of persons employed in the security service, oversees implementation of the regulations on uniform, emblems, titles, ranks, arms and use of force, and regulations on prisoners' involvement in work activity, oversees the material-financial operations of the institution and oversees the spending of investment funds and maintenance of facilities..

Inspection control of medical services in penitentiary-correctional institutions is the responsibility of the Ministry of Health (article 276 of LECS). The inspectors enjoy free access to prisons, and prisoners have the right to contact them directly.

Because of the lack of specified data, it was impossible to analyse the effects of the implementation of above control and oversight and supervisory powers. Consequently the grade is based on the regulation of these powers as well as on analysis of data about general condition in prisons, which is less sound.

Grade: 3 (three)

Parliamentary control

Because of the importance of independent control and oversight of prisons, this issue is specifically regulated in article 278 of LECS. Accordingly upon the recommendation of the Committee for Judiciary and Administration, parlia-

ment should set up a commission composed of five expert members (but not employees of the Administration for Execution of Penitentiary Sanctions). The Commission operates autonomously and the Administration is obliged to provide all relevant information for its work. At least once a year, the Commission submits a status report on penal sanctions to parliament and the Minister responsible for judiciary. This parliamentary commission has not been appointed and its rules of procedures have not been defined.

To date, the parliamentary Committee for Judiciary and Administration has realised its role of overseeing prisons only to a certain extent. It deals with prisoners' complaints and, in 2006, processed more than 200 such complaints and requests.[559] In 2006, members of the Committee visited the Central Prison in Belgrade with the aim of performing direct control and oversight.

Grade: **2 (two)**

Judicial control

The Supreme Court of Serbia has jurisdiction in administrative disputes that are related to administrative decisions of the Administration for Execution of Penitentiary Sanctions. An appeal may be filed with the Administrative Department of the Supreme Court against the decision of the director of the Administration for Execution of Penitentiary Sanctions. If the decision is rejected and the director of the Administration fails to comply, the Supreme Court can decide on the appeal too. Eight separate cases appeared in front of the Supreme Court in 2006. Four decisions issued by the director of the Administration were supported, and four were rejected.[560] Prisoners are not sufficiently informed about administrative proceedings conducted in front of the Supreme Court, and even when they are informed, they cannot obtain the kind of protection if they are not provided adequate legal assistance.

According to a statement given by an Administration representative, a dozen proceedings against prison guards were conducted in mid-2008, all of them concerning excessive use of force.[561]

Judicial control is also present for decisions on conditional release. According to provisions of the Criminal Code,[562] conditional release is decided by the court. Formerly this was the jurisdiction of the Administration. In making a decision on conditional release, the court considers reports on the prisoner's

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[559] System of complaints and inspection controls of prisons in Serbia, Visit of 9–10 October 2006, Belgrade and Novi Sad, *Izveštaj eksperata Saveta Evrope,* 18 December 2006, 21.

[560] *Ibid*., 14.

[561] 'Nema torture u zatvorima u Srbiji', *Dnevnik*, 27 June 2008, 8.

[562] Criminal Code, Official Gazette of RS, Nos. 85/05, 88/05, 107/05 (Art. 46).

conduct during his sentence. When the Helsinki Committee for Human Rights visited prisons in Serbia, prison staff stressed that the court often rejects their motions for conditional release.[563] There are also complaints related to the complexity of the legal procedure and to the small number of the Administration's proposals that were accepted.[564] However, these kinds of objections can be interpreted as staff discontent with the fact that the Administration has lost its competences and that they are now in the hands of judicial authorities.

Grade: 3 (three)

Public control and oversight

Certain government institutions, international institutions, and local non-government organisations are also involved in public control and oversight.

Launched in 2007, the Protector of Citizens, *inter alia*, deals with the prisoners' problems. The Protector has free access to prisoners. In 2007, the Protector received twelve complaints (2.96 per cent of total number of complaints) related to the rights of prisoners[565] and the same complaints were present in 2008.[566]

The Province's Ombudsman controls prisons in the Autonomous Province of Vojvodina. According to his report, a considerable number of prisoners' complaints relate to the protracted extradition procedure, duration of sentences, and unfair guilty verdicts, while a smaller number of complaints concern poor prison food, a lack of Halal food for Muslims, a shortage of orthopaedic aids, and poorly supplied prisons' shops. Prisoners of Roma nationality often complain about their treatment. Many complaints are filed by prisoners who are undergoing pre-trial proceedings and need a permit from the investigatory judge for any communication outside prision. This category of prisoners also complains that prison guards use excessive force. It is difficult to instigate disciplinary proceedings against prison guards because they are never willing to testify against each other. The Province's Ombudsman receives about one hundred complaints a year, and most of them come from a group. Resolving one complaint takes about a month. Almost half of complaints were resolved positively, but there is no feedback on whether prison authorities comply with the Ombudsman's decisions and recommendations.

The Helsinki Committee was the only one to visit all 28 penitentiary-correctional facilities. It also often contacts prisoners and deals with their complaints.

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[563] Jelić Marija, *Zatvori u Srbiji 2004–2005* (Belgrade: Helsinki Committee for Human Rights, 2005) 154.

[564] Statement of the Director of KPZ Niš, *Politika,* 8 February 2009, 12.

[565] *Report for 2007*, March 15, 2008, 29.

[566] The Protector's of Citizen Report for 2008, March 2009.

Prisoners' Problems are often the focus of other non-governmental organisations too. Independent and efficient inspections are performed by the European Committee for the Prevention of Torture and international organisations of the Red Cross. Their findings will be discussed in the following pages.

Grade: 3 (three)

RULE OF LAW

Legal state (Rechtsstaadt)

As has been mentioned, legislative regulation of the operation of penitentiary-correctional facilities is founded on the Constitution, the *Law on execution of penal sanctions,* the *Law on minor perpetrators of criminal offences and criminal law protection of juveniles* (both these laws were adopted in 2005), the *Law on organisation of business units within the facilities for execution of criminal sanctions* (1998), and a large number of by-laws (the *Decree on the establishment of the Institution for Execution of Penitentiary Sanctions in the Republic of Serbia*, the *Rulebook on house rules in penitentiary-correctional facilities and county prisons*, the *Rulebook on house rules for implementation of detention,* the *Rulebook for maintenance of peace and safety in the facilities for execution of penitentiary sanctions,* the *Rulebook on implementation of the programme for protection of participants in criminal proceedings in the facilities for execution of penitentiary sanctions,* the *Rulebook on house rules in penitentiary-correctional facility for juveniles,* the *Rulebook on organisation, operation, and treatment of detainees in a special detention unit,* the *Rulebook on house rules in juvenile correctional/education facility,* and the *Rulebook on keeping records on pronounced educational/correctional measures and juvenile prison sentence,* etc). There are also the by-laws pertaining to the internal structure of the Administration of Execution of Penitentiary Sanctions, such as the *Rulebook for definition of the tasks the performance of which is unacceptable when working in the Administration for Execution of Penitentiary Sanctions,* the *Rulebook on official identification documents of the security staff of the Administration for Execution of Penitentiary Sanctions,* the *Rulebook on uniform and designation of titles of the members of security staff of the Administration for Execution of Penitentiary Sanctions.* Most of the above by-laws (although not all of them) comply with the provisions of the new LECS, and it can generally be said that the legal framework for prisons is in place and is sound. On the other hand, (as with other areas in Serbia) there are certain discrepancies between the regulatory and actual situation. To be precise, application of the laws and the rules provided by the by-laws is not always correct. Further its guiding principle is not that guaranteed by Constitution, namely respect for sentenced and

untried individuals in prison. This is illustrated by the data on submitted complaints, as well as by the outcome of the controls implemented by independent bodies.

Grade: 2 (two)

Protection of human rights

The Constitution, and particularly LECS, contains detailed provisions governing the position of prisoners and defining standards for humane treatment. During a visit to Serbia,[567] the European Committee for the Prevention of Torture and Inhuman Treatment and Punishment found that overcrowded prisons and inadequate accommodation space were the main problems. Moreover, it found that the system for complaining is underdeveloped and that prisoners are not given a possibility to contact the ombudsman. There are no records about the use of the means of force in prisons, no action is taken against prison guards who exceed their powers, and there is no system of alternative sanctions. In addition, there were several incidents of maltreatment of prisoners, and Roma, foreign citizens and members of ethnic minorities are the most exposed to torture. With regard to language, religion or diet, there is still a question mark over the level to which the rights of prisoners from ethnic minorities are respected. Prisoners who are foreign citizens are placed separately, in Sremska Mitrovica prison. Poor conditions in some facilities and the absence of a specific law that would govern persons with mental impairments were among other things that were mentioned.

For the most part, the Administration for Execution of Penitentiary Sanctions implemented the Committee's recommendations. The Ministry for Human and Minority Rights, however, responded that, taking into account the lack of material resources, the main objection put forward by the Committee relating to prison overcrowding and poor accommodation, cannot be easily or quickly remedied. The truth is that most buildings used as prison facilities were built over 70 years ago.

A further problem is that there is no by-law to regulate procedures for filing and resolving complaints. Even though the law does not prescribe it, an appeal must be filed in writing. Illiterate prisoners must completely depend on other prisoners. Prisoners are provided with standard forms for complaints and appeals. Prisoners can use their own language when they write complaints. From

[567] *Report to the Government of Serbia and Montenegro on the visit to Serbia and Montenegro carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 16 to 28 September 2004*, Strasbourg 2006, p. 41.

January 2005 to 1 October 2005 a total of 150 complaints were filed[568] because of infringement of prisoners' rights. Most of them were related to the non-provision of suitable medical care. During the same period, 31 appeals were lodged against the Director of the Administration's decisions on those complaints.

Grade: 2 (two)

EFFICIENCY

The ratio between the number of persons deprived of liberty and those employed in prisons is about three to one. As was mentioned before, of the total number of employees of the Administration for Execution of Penitentiary Sanctions (3687), only 2200 are guards. In Austria, for instance, members of the security services account for 85 per cent of employees. A reason for this unfavourable situation in Serbia is not hard to imagine considering that domestic administration structures often have a disproportionately large number of people performing ancillary or support tasks compared to those performing core activities. LECS envisages the establishment of a Training Centre for Employees of the Administration for Execution of Penitentiary Sanctions, designed to remedy inadequate levels of staff training. Also, there is an insufficient number of available vehicles, worn out and obsolete equipment and an absence of video-surveillance systems.

Twenty-seven people in prisons were identified as being HIV positive, 1931 with hepatitis B or C and 83 with TBC. Surveys also showed that 91 per cent of minors in the Education/Correctional Facility in Kruševac had used opiates or psychostimulants. Fourteen escapes from prisons were recorded in 2007. This includes a group of eight detainees who escaped from the Vršac Detention Unit at the same time. A much larger number of convicts abuse the privileges granted to them. This includes individuals who do not come back to prison after weekend visits or who abandon construction or business sites, as happened 254 times in 2007.

In 2007, 414 conflicts were recorded, involving 596 people. 72 people were lightly injured, and eight seriously. 106 cold weapons (knives, etc) were seized as well as 514 mobile phones (which are frequently a reason for conflict). Authorities also seized 470 grams of heroin and cocaine, 520 grams of marihuana and hashish, 22 litres of alcoholic beverages, and more than four thousand psychoactive medications.

There were nine suicides in prison, sixty-eight suicide attempts and 215 cases of self-injury. There were 352 incidents of hunger strike, the reason for

[568] *Sistem pritužbi i inspekcije zatvora u Srbiji*, 14.

which in the majority of cases is protest against the slow progress of court proceedings.

One of the largest security problems are prison riots, although there were no riots in 2008. Judging by the consequences, the largest riot took place in November 2000 in which, according to the statement of the Minister of Justice, there were 36 victims. This riot took place in the prisons of Sremska Mitrovica, Niš, Zabela, and Padinska Skela. In July 2006, about 70 prisoners protested in the County Prison in Belgrade. They stitched up their mouths using thread and springs from their beds. In October of the same year, prisoners in the prisons in Niš, Zabela, Sremska Mitrovica, Prokuplje, and Valjevo went on hunger strike demanding the adoption of the amnesty law. The following month saw also extensive riots in a number of prisons (Niš, Zabela, Sremska Mitrovica, Zrenjanin, Valjevo, Novi Sad, Sombor, Subotica, and Leskovac). It was suppressed by the gendarmerie (there were more than 55 injured prisoners, 20 self-injured, and considerable damage to the facilities). In July 2007, 125 prisoners protested in Zabela by refusing to take food, again demanding the adoption of the amnesty law.

Grade: 2 (two)

EFFECTIVENESS

Integratedness of the system

If regarded only in view of prison operation, the system of prison sentence serving is built on the principle of integratedness and, in the framework therein, common classification of prisons is implemented. No specific suggestions are made for improvement of the system in this regard. However, considering that functional relations between this system and the systems contingent on it are missing, it seems that prisons constitute a system *per se* and *pro se*. Some serious objections were made concerning the lack of adequate (programme-defined and institutionalised) cooperation between the Administration for Execution of Penitentiary Sanctions, the courts that decide on conditional release, social welfare departments, local self-government units, and other institutions which are supposed to contribute to the achievement of the final goal of the sentence of deprivation of liberty – resocialisation of persons who have served their sentences.

Grade: 2 (two)

Lawfulness of the penal/correctional system

There are no public opinion surveys with regard to prisons. The media only sporadically address the situation in prisons and then only with regard to corruption, riots, escapes, violent deaths and suicides in prisons, or some aspect about the prison life of a celebrity (for instance special privileges and visits).

Grade: 1 (one)

Collation of goals, resources and outcomes

The recidivism rate in our system is approximately 65 per cent. In view of resocialisation this is an extremely negative indicator. Despite the very high recidivism rate, the system leans towards semi-open or open facilities. This problem, as well as the problem of overcrowded prisons, could be alleviated by opting for alternatives to prison, as is common in other countries. For these reasons, legislation (LECS) now provides for a probation system and community work. With the application of these measures prison maintenance costs could be reduced by approximately EUR 2.5 million a year.[569] Probation and community sentencing, however, is still not practically implemented.

Grade: 2 (two)

[569] 'System of alternative sanctions', *B92*, http://www.b92.net/info/vesti/index.php?yyyy=2008&mm=07&dd=04&nav_id=307051&nav_category=12 [accessed 31 July 2008]

Chapter III

NON-STATUTORY ACTORS THAT USE FORCE

1. Private security companies

Marko Milošević

Private security companies (PSCs) in Serbia have been active since the early 1990s. PSCs fall under the category of non-state actors authorised to use force. It is estimated that these companies today employ between 20 and 60 thousand people in Serbia. These companies are providing services of physical–technical protection, cash in transit (CIT) and detective business. Regardless of this, competences and activities of PSCs in Serbia are not regulated by any specific law. What is more, none of the country's strategic documents has recognised private security companies as a security system actor.

The security privatisation process in Serbia can be divided into three periods: The period before 1993 when activities were performed within the framework of the law;[570] between 1993 and 2000 during which the *Law on all people's defence and civilian self-protection* was rescinded and PSCs therefore operated in a legislatively under-regulated environment of UN economic embargo on Serbia; and the period after 2000 which is a time of political transition, economic liberalisation and the opening of the country.

Political/institutional heritage before 2000

There are no systematised data about the number and type of PSCs in the period 1990 - 2000. These companies were not forbidden by any law and were registered as business operators.

The crawling militarisation of Yugoslav society, manifested in the adoption of the *Law on civilian self-protection* in 1973 and, subsequently, the adoption of the *Law on the civilian self-protection system* in 1986, led to the creation of self-protection services that operated within large companies. In the process of economic transformation in the 1990s, privatisation of these self-protection services led to the creation of the first PSCs.[571] The first law placed the idea of security on the broadest social platform by lowering it from the national level to the corporate level. The second law, by including citizens, their associations, and private security institutions in the security system, enabled further development

[570] *Law on all people's defence* and *the Law on civilian self-protection system* of 1973.

[571] 'Sigurnost Vračar' and 'Sigurnost Beograd' are some of them.

of the non-state security sector in the new market economy environment.[572] In accordance with this law created in the time of self-management socialism, members of so-called 'physical security' had the power to manage corporate security functions, including the power to replace corporate leaders because of security failures. However, they did not have the same powers as police officers (which would enable them to arrest and detain people). Also, their right to use arms did not exceed that of other citizens.[573] This self-protection service was also known as the 'industrial police'.[574] In 1993, parliament rescinded the *Law on all people's defence and civilian self-protection*. From then on, the private security sector was not regulated by a specific law, but rather by ten general laws and a large number of by-laws and internal rules.[575]

The second period in the development of the private security sector in Serbia is between 1993 and 2000. During this period the laws on *All people's defence* and *Civilian self-protection* (from 1973 and 1986 respectively) were abolished and economic activity was burdened by the introduction of international economic sanctions and hyperinflation. It was during this period that the first private security companies were established.[576] Even though the situation in Serbia in the 1990s was characterised by a lack of security, due to an atmosphere of civil war in neighbouring territories and criminalisation of society, private security companies did not have any larger workload. The Yugoslav wars and the economic downturn led to the appearance of some other non-statutory security actors. Besides private security companies (which were to some extent legislatively covered[577]), there were paramilitary formations and criminal groups operating as extra-legal security actors[578] (organised crime). At that time, in the atmosphere of civil war, there were many paramilitary formations[579] close to organised crime. This contributed to the perception that PSCs were inefficient actors incapable of providing security. With the cessation of fighting, paramilitary formations diminished[580] and some members left to join PSCs. The precise

[572] Zoran Keković, 'Predgovor' in *Hrestomatija Sistemi bezbednosti,* ed. Zoran Keković. (Beograd: Fakultet bezbednosti Univerziteta u Beogradu, 2007).

[573] Without any specific powers vested in members of police and military

[574] Data obtained in an interview in the course of the research *Private Security Companies – a friend or a foe*?, CCMR, Belgrade 2008.

[575] See entrefilet with the laws governing PSCs.

[576] 'Progard'

[577] Entrefilet – existing legislative regulations governing the operation of private security companies

[578] Petrović Predrag, 'Privatizing Security In Serbia', *Western Balkans Security Observer,* Number 4 (2007): 18

[579] 'Osvetnici', 'Tigrovi', 'Beli orlovi'
http://arhiva.glas-javnosti.co.yu/arhiva/2001/10/24/srpski/H01102309.html

[580] Arkan's 'Tigers' are an exception, since they were incorporated in the Special Operation Unit.

number of such transfers is unknown. PSCs existed during the Yugoslav wars but they did not operate as military companies, nor did they take part in the fighting as is common for such companies around the world.[581]

For sixteen years no law has been in place to regulate the specific character of the private security sector. Private security companies operate based on ten laws and regulations, and most important among these are the *Law on weapons and ammunition*, *Labour Law* and the *Law on fire protection***.** These laws consider PSCs to be economic actors, but the specific nature of their operation, such as the use of weapons, application of special investigative techniques, control and control and oversight of these companies, are still not regulated. The laws and regulations governing the private security sector are presented below:

Laws

- Labour law, Official Gazette of the Republic of Serbia, 24/05
- Law on weapons and ammunition, Official Gazette of the Republic of Serbia, 44/98
- Law on amendments to the Law on weapons and ammunition, Official Gazette of the Republic of Serbia, 39/03
- Company law, Official Gazette of FRY, Nos. 29/96, 33/96 –corr., 29/97, 59/98, 74/99, 9/2001 – Decision of the Federal Constitutional Court and 36/2002
- Criminal Code, Official Gazette of the Republic of Serbia, 85/05
- Law on fire protection, Official Gazette of the Republic of Serbia, 48/94
- Law on occupational health and safety, Official Gazette of the Republic of Serbia, 101/05
- Law on amendments to the Law on the prevention of violence and inappropriate conduct at sporting events, Official Gazette of the Republic of Serbia, 90/07
- Law on transport by road, Official Gazette of the Republic of Serbia, 32/90
- Law on amendments to the Law on transport by road, Official Gazette of the Republic of Serbia, 62/06
- Law on telecommunications, Official Gazette of the Republic of Serbia, 44/03
- Law on planning and construction, Official Gazette of the Republic of Serbia, 47/03
- Law on explosive matter, inflammable fluids and gases, Official Ga-

[581] Fred Schreier and Marina Caparini, *Privatizing Security: Law, practice and governance of private military and security companies* (Geneva: Centre for the Democratic Control of Armed Forces, 2005), 1.

zette of the Republic of Serbia, 44/77, 45/84, 18/89
- Law on natural gas transportation, distribution and use, Official Gazette of the Republic of Serbia 66/91, 53/93, 67/93, 48/94, 12/96
- Law on transportation of dangerous matter, official Gazette of SFRY, 27/90, 45/90, Official Gazette of FRY, 24/94, 28/96, 21/99, 68/02

Box 4: Existing relevant regulations governing private security companies

- Final rules of business ethics
- Standard preparation programme
- Service quality level determination programme
- Decision on setting of service minimum prices
- Decision on service minimum prices

Box 5: Internal rules of PTS Association in the Serbian Chamber of Commerce

- Decree on the transport of dangerous matter by road and rail, Official Gazette of FRY, 35/95
- Rulebook on the manner of transporting dangerous matter by rail, Official Gazette of SFRY, 25/92
- Rulebook on the manner of transporting dangerous matter by road, Official Gazette of SFRY 82/90
- Rulebook on technical regulations for warehouse protection against fire and explosion, Official Gazette of SFRY, 24/87
- Rulebook on technical Regulations for protection of high-rise buildings against fire, Official Gazette of SFRY, 7/84
- Rulebook on technical regulations for fire hydrant systems, Official Gazette of SFRY, 30/91
- Rulebook on mandatory fire resistance attestation for typical structural elements and the requirements to be met by associated labour organisations authorised for such product attestation, Official Gazette of SFRY, 24/90
- Rulebook on technical regulations for construction, finishing works design and execution, Official Gazette of SFRY, 21/90
- Rulebook on technical regulations for access roads, turntables, and erecting fire vehicle platforms in the vicinity of buildings presenting a high fire risk, Official Gazette of FRY 8/95
- Rulebook on technical requirements and norms for safe transportation of liquid hydrocarbon and gaseous hydrocarbons via trunk gas pipelines and oil pipelines and international gas pipelines, Official Gazette of SFRY, 26/85

- Rulebook on technical regulations for internal gas installations, Official Gazette of FRY, 20/92, 33/92
- Rulebook on technical regulations for low voltage installations, Official Gazette of SFRY, 53/88, 54/88, 28/95
- Rulebook on technical regulations for static electricity protection, Official Gazette of SFRY, 62/73
- Rulebook on technical regulations for the development of mandatory technical documentation to accompany the systems, equipment and fire detection and alarm devices, Official Gazette of FRY, 30/95
- Rulebook on technical regulations for stable fire alarm system, Official Gazette of FRY, 87/93
- Rulebook on technical regulations for stable installations for detection of explosive gases and vapours, Official Gazette of FRY, 24/93
- Rulebook on technical regulations for fire protection of electric plants and devices, Official Gazette of SFRY, 74/90
- Rulebook on detailed requirements for implementation, manner of implementation, and programme of training for use of firearms, Official Gazette of the Republic of Serbia, 1/99, 30/2000
- Rulebook on detailed requirements and manner for storing and safeguarding weapons and ammunition, Official Gazette of the Republic of Serbia, 1/99

Box 6: By-laws regulating PSCs

The situation since 5 October 2000

The political changes of October 2000 had an impact on the Serbian PSC market. An increasing number of foreign companies began to appear on the Serbian market as the investment potential rose. Most important for the development of PSCs, however, was the arrival of foreign banks. The banks needed physical-technical protection (man guarding and technical security) which they could not get from political parties,[582] paramilitary formations, or criminal groups (as was the case during the 1990s), but rather from lawfully operating entities, namely PSCs. Provision of these services to banks all their branches in Serbia meant an increase in the volume of work and, consequently, an increase in the recruitment of staff. This has additionally highlighted the need for regulation, and in 2003 the Ministry of Interior (MoI) forwarded a draft law on PSCs to parlia-

[582] The Serbian Unity Party, a political party founded by Željko 'Arkan' Ražnatović, used to provide, inter alia, services of protecting motor vehicles.

ment for consideration.[583] This draft was soon withdrawn to be further elaborated but has not been seen since.[584] The increased number of companies and the increased number of employees in those companies, fed by growing demand, now led to the articulation of common interests in the private security sector.

At the end of 2005, the Association of Companies for Physical-Technical Security within the Serbian Chamber of Commerce (PTS Association) was established. The Association gathered representatives of PSCs, detectives, companies involved in self-protection service,[585] and for a time,[586] bank security managers. The Association drafted a proposal for a law on the private security sector in 2006, and two civil society organisations drafted their own versions of the law on private security sector[587] in that same period.

Key actors in private security sector

Key actors with regard to the activity of PSCs include the Security and Defence Committee, parliament, the Ministry of Interior (MoI), clients, and insurance companies. There are two different types of influence on the private security sector; legislative and market influence. According to the *Law on weapons and ammunition*, the MoI plays an executive role in the control and oversight of PSCs. The Parliamentary Committee for Security and Defence oversees the private security sector indirectly, by overseeing the MoI. However, the Committee has never taken advantage of this theoretical opportunity.[588] The PSCs' clients and insurance companies are the exponents of market influence on private security sector. The clients shape the types and quality of PSC services by putting forward their requests while insurance companies supposedly stimulate the provision of good services and sanction the failures and poor quality of PSC services with their policy.

[583] Statement of a respondent who is a member of the Parliamentary Committee for Defence and Security, in the interview given within the project *Private security companies in Serbia – a friend or a foe?* in late 2007.

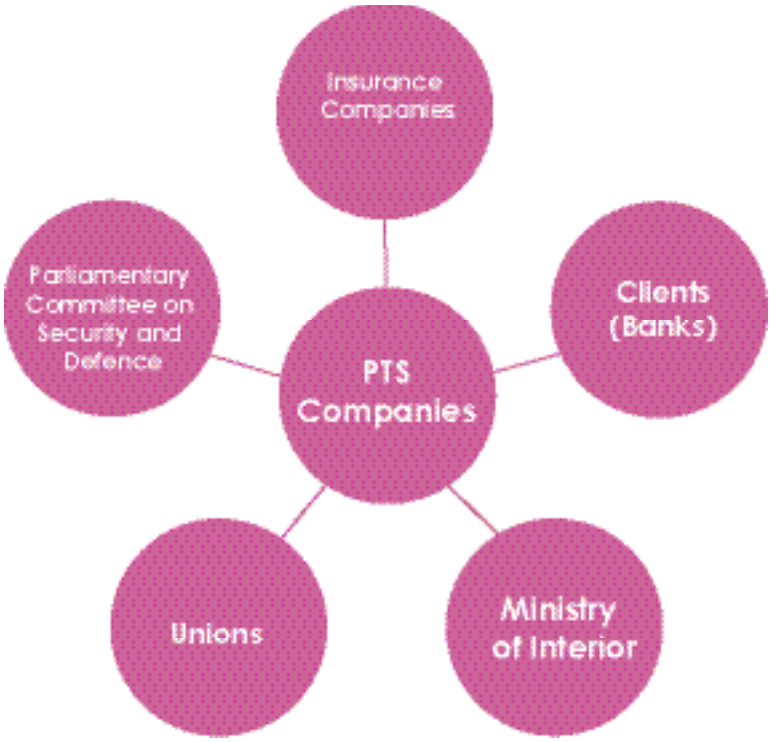
[584] Statement of a respondent who is a member of the Parliamentary Committee for Defence and Security, in the interview given within the project named *Private security companies in Serbia – a friend or a foe?* in late 2007.

[585] Self-protection service is the activity of providing security within large companies.

[586] At first, bank security managers were a part (actually a section) of the PTS Association. Later, however, because of conflicting business interests, this section of managers detached from the Association and joined the Banking and Insurance Division.

[587] *Draft law on private companies providing personal and property, security services and detective companies*, League of Experts – LEX, 2006, and *Model law on private security sector*, Centre for Civil-Military Relations, 2006.

[588] Statement of a respondent who is a member of the Parliamentary Committee for Defence and Security, in the interview given within the project named *Private security companies in Serbia – a friend or a foe?* in late 2007.



Graph 5: Environment of PTS companies in Serbia

Private security companies

There are approximately 3000 private security companies now operating in Serbia.[589] Considering that, under the *Enterpreneur law*, private security companies register to provide different services and thus appear under a number of different activity codes in the register, it is difficult to determine the exact number of registered companies. The number of employees varies between 20 and 60 thousand,[590] depending on the image the company wishes to create.[591] It is estimated that there are 47 thousand small arms in this sector. The companies register in the municipalities and therefore fall within the competences of the municipal police stations. The MoI does not have a centralised list of companies

[589] Statement of a respondent belonging to the private security sector, in an interview given within the project named *Private security companies in Serbia – a friend or a foe?* in late 2007.

[590] Data obtained during the research *Private security companies in Serbia – a friend or a foe?* in late 2007.

[591] Statements of experts are closer to the lower of the two mentioned figures, but representatives of PSCs present a higher figure and so highlight the importance of these companies and the necessity of having this sector properly regulated.

and employees, nor data about the quantity of weapons.[592] The only body gathering together the companies from this sector is the Serbian Chamber of Commerce PTS Association. Since it is not obligatory for a company to be a member of this professional association, some companies choose not to be members because they do not consider the membership fee cost-effective. Although it is voluntary-based, this body gathers a largest number of companies and almost all larger companies involved in this business are members of this Association.[593] The Association has taken part in drafting two proposals of the law on the private security sector and, along with representatives of insurance companies and bank security managers, it was consulted on the development of the standards for the private security sector. These law proposals envisage that the Association should be the licensing body for companies and their employees.

Statutory actors

Considering that the private security sector is inadequately regulated, it is important to take into account the actors who influence or can influence the sector. The Parliamentary Committee for Defence and Security and the Ministry of Interior are the relevant government authorities.

According to the *Law on weapons and ammunition*, control and control and oversight of PSCs is implemented by the MoI. The MoI is the only body who has a role in security checks[594] of employees in these companies, as well as in issuing licences to procure weapons (to companies) and licences to carry weapons, to employees. The problem between the MoI and PSCs arises from the fact that the MoI is entitled to obtain additional revenues[595] on the market by providing certain services, such as providing security for the transport of money or security services at events. Since PSCs provide the same services, there is a potential for a conflict of interest and also a possibility of discrimination against when issuing licences for weapons procurement or when performing security checks of employees, so as to ensure preferential treatment to its own services on the

[592] Data obtained within the research *Private security companies in Serbia – a friend or a foe?* The respondents at the MoI did not have the requested data and the respondents from PSCs stated where they register and recommended that it is better to go to several municipalities when you want to register because there is no unified list.

[593] More about the Association and its members see the website: http://pks.komora.net/PrivredauSrbiji/Privrednegrane/Privatnoobezbedjenje/tabid/1717/Default.aspx

[594] *Law on weapons and ammunition*, Art. 6, Official Gazette of RS, Nos. 9/92, 53/93, 67/93, 48/94, 44/98, 39/2003, 101/2005 – other law, and 85/2005 – other law.

[595] Rulebook on the types of services which the Ministry of Interior may provide in order to obtain additional proceeds, Official Gazette of RS, Nos. 64/2006, 71/2007, and 14/2008

market.[596]

The Defence and Security Committee has a possibility to implement continuous control and oversight of the private security sector. Namely, the Parliamentary Committee for Security controls and oversees the MoI and, since the MoI oversees the security sector, the Committee can gain insight into the private security sector. In real life, however,[597] the Committee has never asked for information about this sector.[598] Members of the Committee are not adequately informed about the issue and, consequently, the possibility of control is reduced.[599] Since it does not have other legal powers, the Committee is not in a position to perform direct control of the private security sector. Since 2003, when the MoI's law proposal was withdrawn, not a single proposal of a law on PSCs has been introduced into parliamentary procedure or considered in the committees.[600]

Non-statutory actors

Clients of PSCs have had a key role in the development of the private security sector. Market principles of supply and demand have contributed to the professionalisation of this sector more than any legislative or regulatory provisions so far. When foreign companies (primarily banks) entered the Serbian market, the

[596] Data obtained for the research *Private security companies in Serbia – a friend or a foe?* A respondent from a PSC complained about the conduct of the MoI explaining that the police was repeatedly stopping the transport of money being performed for banks and referring the vehicle concerned for extraordinary check-ups. The bank terminated the contract with that PSC. A PSC may be obstructed in this way, either to favour another PSC or to favour the MoI, considering that the MoI is a market actor too.

[597] Statements of two respondents belonging to the Parliamentary Committee for Defence and Security, in the interview given for the project *Private Security Companies in Serbia – a Friend or a Foe?* in late 2007.

[598] Sonja Stojanović, ed., *Private security companies in Serbia – a friend or a foe?* (Belgrade: Centre for Civil-Military Relations, 2007).

[599] Sonja Stojanović, ed., *Private security companies in Serbia – a friend or a foe?* (Belgrade: Centre for Civil-Military Relations, 2007).

[600] Viewpoint of a representative of the Defence and Security Committee, expressed in the public debate *Private security companies in Serbia – a friend or a foe?* Organised in Media Centre on 10 June 2008.

demand for specialised security services increased. Several larger companies[601] were capable of providing proper services but they too had to adjust to clients' requirements. The militarised appearance of their employees at the beginning (overalls, boots, sometimes even 'long barrels'[602]) was subsequently replaced by a civil wardrobe (shirt, tie and ID). Clients requested that employees become more professional and this meant the submission of daily and monthly reports and increased the importance of technical security systems.[603] The novelties intoduced in some companies included unarmed security staff. These staff are not authorised to use firearms and would be subject to criminal prosecution if they used a weapon. If armed staff were in place, potential robbers would usually also be armed to an equal or a larger extent, which increases the risk that firearms will be used. Paradoxically, the presence of armed security staff reduces the safety of bank customers and employees instead of increasing it.

Insurance companies are the second non-statutory actor influencing PSCs. State-owned insurance companies (Dunav and, before the end of 2007, DDOR Novi Sad) accounted for approximately 90 per cent of the Serbian market.[604] Representatives of PSCs and security managers of banks agreed[605] both that insurance companies can contribute considerably to raising the quality of private security services, but that the potential had not been fulfilled. Insurance premiums are the same, regardless of the sum spent on the protection of insured assets, i.e. in the quality of security. Some market actors simply did not find it cost-effective to invest in security. There are two factors that may influence the inadequate involvement of insurance companies. One is privatisation (before its privatisation, DDOR Novi Sad's market share was about 30 per cent), and the other is the drawing up of standards for private security services, with the participation of the PTS Association, as well as the insurance companies.

Unions are still not recognised in the Serbian private security sector. A union of PSC employees is active in Europe[606] but in Serbia the union exists only in companies that offer self-protection services, and this is a relic from socialism.

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[601] Large companies had enough employees to be awarded contracts in the tender procedure. Contracts with banks are usually made in Belgrade, at the bank's principal office, and it covers provision of security services related to the bank's property in the entire territory of Serbia. These requirements favoured larger companies and the companies with smaller number of employees were not able to meet the tender requirements. See more in: Marko Milošević, 'Influence of the Market on the Private Security Sector', in *Private security companies in Serbia – a friend or a foe?*, ed. Sonja Stojanović. (Belgrade: Centre for Civil-Military Relations, 2008), 62.

[602] Assault rifles or shotguns

[603] Sonja Stojanović, ed., *Private security companies in Serbia – a friend or a foe?* (Belgrade: Centre for Civil-Military Relations, 2007).

[604] Sonja Stojanović, ed., *Private security companies in Serbia – a friend or a foe?* (Belgrade: Centre for Civil-Military Relations, 2007).

[605] Data obtained within the research *Private security companies in Serbia – a friend or a foe?*

[606] UNI Property Services Global Union, http://www.union-network.org/unipropertyn.nsf

Since the role of unions in the private security sector is marginalised, union organisation of employees is missing in all PSCs, expect state-owned companies for self-protection. Employees in PSCs are poorly paid and they often leave to work in other sectors despite the fact that higher salaries and better work conditions can be ensured through union activity only.

In the same way that clients set the standards the security service providers, foreign PSCs also introduced their own standards when they came onto the market. The way foreign PSCs entered the Serbian market is similar to foreign banks. Namely, they bought local PSCs or majority interests in companies. The two largest foreign PSCs in Serbia are *G4S* and *Securitas*. British company *G4S* bought 'DMD alarm' and acquired a majority interest in 'Progard'. This company has a huge budget and more than half million employees call around the world. *Securitas* entered the Serbian market in 2008 by acquiring 'SCP Internacional'. It employs about 250,000 people around the world and is one of the leading companies in the field. Foreign companies can influence the development of PSCs in Serbia in two ways. The first is to continue to use cheap labour and extract profit from the Serbian market, especially since there is no obligation to invest in the training of employees in order to acquire operating licences[607] for companies or for employees. The second way is to apply existing company standards to their operations in Serbia. This would incur a loss in the short-term. In long term, however, clients would begin appreciate higher quality services and other PSCs would have to follow suit in order to survive on the market.

- Between 20,000 and 60,000 persons are employed in PTS sector
- 47,000 personal weapons in this sector
- Approximately 3,000 companies registered
- Serbian market at valued at an annual level of EUR 148 million

Box 7: Key statistics in the private security system

Sistem FTO, G4S (Progard and DMD alarm), Sigurnost Vračar, SCP Internacional (Securitas), Telus

Box 8: The largest PTS companies in Serbia

[607] Currently, employees have no obligation to hold a licence to provide these services. The only required certificates are medical certification, certification that the candidate was never convicted, and certification of the completion of training in firearms.

Security capacity of private security companies

Mapping and evaluation of the dimensions of the private security sector in Serbia presents a great challenge. On one hand, this is an innovative task since reform in this sector in Serbia has not been tackled before. On the other hand, the absence of regulations specifically related to this sector is an impediment for building the foundations for longitudinal monitoring of progress, and, therefore, progress in the reform of the private security sector. We have taken into account only publicly available data; legislation and scientific research. The greatest obstacle for mapping efforts is the absence of a law on private security companies. The absence of the *Law on data classification* also impedes the control and control and oversight over the implementation of special investigative techniques and procedures. It was noted that the *Law on police,* the *Law on weapons and ammunition*, and *the Law on personal data protection* need to be amended. The second valuable data source are scientific research which, either directly or indirectly, address the private security sector. An important source is the pioneering research *Private security companies in Serbia – a Friend or a Foe?*, but also information obtained in an omnibus public opinion survey conducted by CeSID, *Resource Autumn 2008*. It was the first examinination of public trust in PSCs.

TRANSPARENCY

Transparency in the private security sector concerns aspects that are of public interest, such as the number of members, quantity of arms, control and oversight over the implementation of special investigative techniques and procedures, authorisations and licences, and employee trainings.

The PSCs are not obliged, by the Constitution or by law, to ensure transparency. They have only obligations stemming from their capacity of business entities, such as the *Labour law* (Official Gazette 24/05) and the *Law on tax procedure and tax administration* (Official Gazette 80/02). The *Law on access to information of public importance* mainly concerns statutory actors and not the bodies discharging public functions (Article 3). Accordingly, some information about PSCs can be requested from the Commissioner for Information of Public Importance. The laws to regulate this field, taking into account the specific character of the private sector, include laws on the private security sector and on data classification. However, neither has been adopted.

Also, the absence of these laws makes information about authorisations, licences, training, equipment, and weapons used by private actors, inaccessible (although they are sometimes put on companies' websites). The situation is made more difficult by the absence of legal obligations on one hand, and the

large number of companies (3000) that register for different activities but provide security services, on the other. In the absence of a law on the private security sector, companies in Serbia do not require operating licences (employees do not need licences). Data about the number and types of weapons held by PSCs can be obtained only from the MoI since no legal obligation is in place for PSCs to publicly disclose information about the weapons they use, their operations, training, or licences. A specific problem is that the data available to the MoI about the weapons and the number of private security companies are not centralised; PSCs apply for permits to procure or carry weapons with local police stations.

Since the implementation of special investigative techniques is not regulated, there is no obligation to allow access to data about the use of special investigative techniques, or about classification, maintenance and provision of data collected about citizens or other entities. The level of abuse of data acquired through lawful interception is not known, nor do we know which law protects citizens against such abuse.

Transparency in private security sector was graded 2 (two). No specific law governs this field and, consequently, there is no legal obligation to ensure transparency. On the other hand, private security companies have demonstrated openness through their participation in public debates, work with civil society organisations on drafting a proposed *Law on the private security sector*, and in their willingness to take part in research.

Grade: 2 (two)

ACCOUNTABILITY – DEMOCRATIC CIVILIAN CONTROL AND PUBLIC Control and oversight OF THE PRIVATE SECURITY SECTOR

Public control and oversight and control of the private security sector in Serbia exists over those elements of the sector which are of public interest. On the other hand, the private security sector is not as uniform as other statutory security actors. It consists of approximately 3000 private companies and, with the lack of a body to keep unified records about these companies, control and control and oversight is much impeded.

The Constitution and laws do not regard the private security sector as a specific actor. Rather, general laws apply, as they apply to other citizens or economic operators. The control and oversight which government authorities im-

plement over PSCs is exercised through the MoI, tax police and labour inspectorate. According to article 6 of the *Law on weapons and ammunition,* the MoI exercises control over the private security sector. This article envisages control and oversight of procurement, storage, and the use of weapons but it does not define PSCs as a specific actor over which control and oversight is implemented. The government also implements customary measures over PSCs which are relevant for all companies. This control does not touch upon security functions. Tax control is performed by the tax police, in accordance with the *Law on tax procedure and tax administration* (Official Gazette of RS, nos. 80/02, art. 135–139), and the labour inspectorate carries out control and oversight according to the *Labour law* (Official Gazette of RS, nos. 24/05 and 61/05, art. 268–272).

Legislation regards PSCs as businesses, while the specific element of this sector – the carrying and use of weapons – is regulated by the *Law on weapons and ammunition*. This law does not contain provisions to regulate members PSCs in respect to carrying or using weapons. The same provisions applying to citizen with firearms also apply to PSC employees. Control and control and oversight by the MoI is carried out in accordance with articles 17, 19, and according to article 35, paragraph 7 of the above law. Existing legal grounds do not envisage any special procedures for the control of the use of force or firearms. The fact that PSC employees are not authorised to use weapons has meant that they become 'bystanders in robbery' since their only responsibilities are to provide information to the police and secure the scene of the crime pending the arrival of the police. Apart from controlling the issuance of licences for carrying and procuring weapons, MoI does not perform any systematic or periodic controls of this sector. More precisely, checks carried out by the MoI when processing applications are the only type of control that the MoI performs on the private security sector.

The only law regulating the use of special investigative techniques and procedures is the *Criminal procedure code*. However, provisions of the code only concern statutory actors and do not touch private and legal personalities. The term 'special investigative techniques' denotes data interception techniques that sometimes infringe upon constitutional rights and freedoms. These include:[608]

1. Lawful interception of telecommunication services, activities and traffic:
    a) Lawful interception of the content of communication
    b) Lawful interception of data about telecommunications traffic
    c) Lawful interception of user's location
    d) Lawful interception of international telecommunication connections;
2. Lawful interception of mail and other shipments;
3. Video surveillance and recording of premises, closed spaces and objects;

[608] Miroslav Hadžić and Predrag Petrović, ed., *Demokratski nadzor nad primenom posebnih ovlašćenja* (Belgrade: Centre for Civil-Military Relations, 2008).

4. Secret search of suspect(s)' residence;

5. Secret surveillance and monitoring of persons in open spaces and in public places;

6. Video surveillance and recording of persons in open space and in public spaces;

7. Secret purchase of documents and objects.

No law regulates the manner and the events in which special investigative techniques can be used by private security companies. Also, it is not known to what extent and in what manner these measures are used, regardless of the fact that the absence of regulation leaves plenty of room for misuse. Regulation of the use of special investigative techniques should be in accordance with the laws on private security sector and data classification, but none of these laws have been adopted so far. The only law which addresses the issues of the application of special investigative techniques to some extent is the *Law on personal data protection* (Official Gazette of RS, no. 97/08), which prescribes the control and oversight over implementation and enforcement of laws, as performed by the Commissioner for Information of Public Importance, and protection of personal data.

There are no bodies in charge of comprehensive and systematic analysis of the findings of control and control and oversight. Municipal MoI departments have control and oversight of companies registered in their municipalities, but a central MoI register of these companies does not exist. Consequently, comprehensive and systematic information about control and control and oversight of this sector is not available. Information about control and control and oversight of the public security sector is not publicly available.[609] The Commissioner for Information of Public Importance's report for 2007 did not record any case concerning PSCs.[610] Parliament has never (as has already been mentioned) implemented the possibility of indirectly overseeing the private security sector.

Democratic civilian control and public control and oversight of the private security sector receives **1.5 (one point five).** There are no specific laws to regulate this sector and control and control and oversight are therefore implemented the same way as for all citizens. There is no single body through which the public can perform control and oversight over the private sector.

Grade: 1.5 (one point five)

[609] In the course of the research *Private Security Companies in Serbia – a Friend or a Foe?,* the MoI was asked for information about the number of employees in the private security sector, the number of weapons in possession of these companies, and the number of armed incidents in which members of these companies were involved. The MoI replied that they do not have a central register and that such information is not available.

[610] The Commissioner's Report for 2008 on the occasion of the adoption of the *Law on personal data protection*, is still not publicly available.

RULE OF LAW

Legal state (Rechtstaat)

The private security sector has not been recognised in legislative or strategic terms. The Constitution, the *Constitutional law for implementation of the Constitution of the Republic of Serbia*, the *Law on free access to information of public importance*, the *Law on defence*, and the *Criminal procedure code* do not mention the private security sector and it has already been underlined that this sector is not regulated by any specific law (as is customary in Europe).[611] Strategic documents the *Defence strategy* and the *White Book* do not recognise the private security sector as an actor. The document that last integrated the private security sector into the security system, the *Law on all people's defence and civilian self-protection* was rescinded in 1993. According to how they are regulated, during the past sixteen years Serbian private security companies have been economic rather than security actors.

The existing regulations of the private security sector are part of the legal system but they do not govern security-related competences. Namely, this sector is governed by a dozen general laws which also apply to other actors. Some of the laws are unsuitable for the sector. The *Law on weapons and ammunition*, for instance, does not prescribe deadlines for issuing weapon procurement and carry permits and protracted timeframes prejudice PSCs operation on the market. Due to the absence of valid legal provisions, authorisations of persons employed in PSCs are identical to the authorisation of other citizens and, frequently, when it is necessary to use force, employees in this sector find that their 'hands are tied'. Internal regulations are adopted and applied within individual companies but often their purpose is only to 'fill the legal gaps'.[612] It is not known whether any body exists to control compliance with the Constitution and laws of Serbia. Internal regulation in the private sector are not a part of the legal system but have been developed according to laws governing the private security sector abroad, to the *Law on weapons and ammunition* and according to the *Law on police*. Accordingly, there is a possibility that integration will follow once the *Law on the private security sector* is adopted. PSC employees have the

[611] Sonja Stojanović, ed., *Private Security Companies in Serbia – a Friend or a a Foe?* (Belgrade: Centre for Civil-Military Relations, 2007). See tabular overview of legislation. Besides Serbia, the absence of private security sector legislation also exists in the Czech Republic.

[612] In the course of the research *Private Security Companies in Serbia – a Friend or a Foe?* we learned that employees in one company received instruction on how to act in the event of using the firearms They were told to shoot another bullet so as to ensure that, at the reconstruction, they could maintain that they fired a warning shot, in line with obligations imposed on the military and police.

same rights as other citizens with regard to weapon-related powers and use of weapons, in contrast to police officers who can use weapons in events set out by the law (e.g., the *Law on police*, art. 38), persons employed within PSCs can use weapons the same as other citizens, such as for self-defence purposes (and are also criminally liable).

Private security companies do not have the legal right to use special investigative techniques and powers. Statutory actors implement these measures and procedures in accordance with the *Criminal procedure code*, in clearly defined circumstances and within a specified timeframe. Absence of a law on PSCs, and a law on data classification, has resulted in under-regulation of the application of these techniques and has left room for misuse. Because of the non-existence of regulations to limit and determine the scope and reach of special investigative techniques, private security companies have the opportunity to abuse individual privacy. Data about individuals collected in this way (namely without a court order) cannot be used in court, but can be used for blackmail.

Control and control and oversight of the private security sector is implemented by the MoI according to the *Law on weapons and ammunition*, and then by the tax police with regard to finances, and the Labour Inspectorate in terms of adherence to the *Labour law*. However, there is no control over the security aspect of PSCs operations, such as weapon procurement, carrying, storage and use, compliance with procedures, and use of the data collected by video surveillance of public spaces.

Adoption of a law on the private security sector and on data classification is the first and necessary step towards harmonisation with international regulations and standards. Considering that key laws are not in place, we cannot discuss harmonisation of laws that are more general in character but are applicable to this sector.

Considering the above, the 'legal state' indicator is given the lowest grade since neither the Constitution, the laws, nor strategic documents regulate the private security sector. The small number of laws that do apply to this sector do not address specific characteristics (time required for security checks) and capacity (possibility for using special investigative techniques). There is clearly room for improvement.

Grade: 1 (one)

Protection of human rights

Protection of human rights is not specifically defined in the private security sector. Absence of a law on the private security sector means that human rights of citizens and employees in this sector are protected only by the Constitution, and not by specific laws.

Private security companies are not only businesses; their operations affect citizens other than those who hire their services. In public places, when certain tasks are performed by PSCs,[613] citizens' human rights may be impinged. The *Law on personal data protection* (Official Gazette 97/08, art. 8–16) guarantee that no unauthorised use of audio-video recordings can be made by cameras in public places, or in spaces under security.

An absence of licences means that training of company employees is not standardised. It is often undemanding and does not include protection of human rights. Employees must complete firearms training. Depending on the scope and type of the activities in which they are involved, the company can send employees to additional courses, such as fire protection, first aid and transportation of money. On the other hand, employees do not receive any instruction on human rights even though it is part of their job to ask for identification documents from people within the area where they are providing security. They also restrict freedom of movement and to search personal belongings. These activities are relevant for human rights and, according to the law, they can be performed only by police officers.

There are no specific regulations of the procedures, methods and instruments for protection of human rights in the PSC sector. The protection of human rights of employees and citizens is to an extent regulated by the *Criminal procedure code* (CPC) (arts. 81 and 111) and the *Law on weapons and ammunition* (arts. 13, 27, and 35). An absence of laws on the private security sector and data classification also influences the non-existence of legal determinants for the protection of human rights in the events of use of special investigative techniques and procedures. Moreover, the CPC protects citizens only against the acts of statutory actors. There is no evidence about the frequency, type and forms of human rights' violation of citizens and employees in the sector. Data about human right are not publicly available. This is a consequence of the absence of a law, the existence of a large number of companies, and a lack of efficient control and control and oversight of this sector.

The protection of human rights in the private sector can be given a positive assessment. Human rights in this sector are protected only by the Constitution. Consequently, procedures for the protection of human rights are not prescribed and PSC employees enjoy the same protection as other citizens, including for the use of arms and the application of special investigative techniques.

Grade: 2 (two)

[613] During the transportation of money, the 'usurpation' of public space takes place when the vehicle is parked outside the building from where money is being taken and members of security temporarily prevent access to the vehicle, thus restricting freedom of movement in public space. The police or military are authorised to perform these activities.

INTEGRATEDNESS OF THE PRIVATE SECURITY SECTOR

The private security sector in Serbia is a so-called grey zone. Strategic documents do not recognise this sector and since 1993 this sector has not been regulated by a specific law. Absence of regulation means that the private security sector is not formally integrated in the Serbian security system. Different types of companies operate and they can be classified according to their size, type of activity, and ownership structure. Serbia currently has six large companies with the largest market share and over 1000 employees. Smaller companies employ 50–200 people and are less visible on the market. The smallest companies, with only several employees, provide detective or technical protection services. In terms of ownership structure, a few companies providing self-protection services are the exception[614] since they are state-owned, namely they are sub-systems of public enterprises. According to the activities they perform, and the powers vested in them, these companies are no different from other PSCs.

Functional integratedness of PSCs in the security system is the exception rather than the rule. There are examples that suggest that government institutions hire private security companies,[615] but this does not mean that PSC employees in government institutions have greater powers than their colleagues who work in private companies. Integration in the security system is further impeded by an overlapping of competences that is by unfair competition. Namely, with the *Decree on the types of services*, the police was given the opportunity to make additional income (Official Gazette of RS, nos. 64/06, 71/07, and 14/08) and provide the same services on the market as PSCs. However, the police is funded from the state budget (from the taxpayer), and thus uses public resources to make profit on the market. A further problem arises because the police can exercise control of these companies. The police has the opportunity to abuse its powers in order to gain profit.[616] There are no bodies, competences or procedures for coordination between the private security sector and state security sector.

The efficiency of private security companies should be gauged in terms of their capability to take part in the maintenance and enhancement of individual

[614] 'NIS', 'Kolubara usluge', 'Telus', 'JKP' and 'Vodovod'

[615] PSCs services are used by the VMA, many museums, institutes and public institutions.

[616] Statement of one respondent in the course of the research *Private Security Companies in Serbia –a Friend or a Foe?* According to the respondent, vehicles transporting money for clients were repeatedly stopped by the police and given extraordinary checks. Because of these delays, the company lost its contract. Considering that the MoI can provide services of escorting the transportation of money, this abuse of powers is aimed at taking business from the private sector.

and national security. Some 3000 PSCs operate in Serbia, employing between 20,000 and 60,000 people. These companies compete for contracts which impede their functional cooperation. The only organisation representing the viewpoints and interests of these companies is the Association of Companies for Physical Technical Security within the Serbian Chamber of Commerce. This association is based on the principle of voluntary participation and, accordingly, decisions of this body are not binding to all PSCs. The absence of legislative and strategic guidelines does not encourage integration (formal and functional) of PSCs in the national security system and, therefore, it is harder to measure the contribution of these companies in the field of national and individual security.

Measuring the efficiency of the private security sector is impeded by the versatility of companies, by private ownership, and by their position on the market. The market will has the final say about the soundness of PSCs' organisational structure, their functionality and rationality, just as an owner will decide on changes which PSCs will introduce based on that decision.

The level of PSCs integratedness in the security system is affected by the absence of relevant laws, as well as by the non-existence of a uniform training system for employees. One company has its own *academy* for employees, and there was a training programme at the Police College. The absence of an educational system and legal obligations to possess particular knowledge (confirmed by a certificate issued by an educational institution) indicates that it is necessary to have a system of continual education, as well as training and evaluation of employees for the entire private security sector. Such a system would increase functional integratedness of the private security sector, as well as its integratedness into the security sector. PSCs' integration into the national security system is impeded by the absence of a law that would prescribe criteria and, consequently, a long-term and uniform education system. Private security companies are market actors and their management depends on size. Good management is also market-oriented because contracts are awarded according to the quality of services provided. Low level of professionalism, typical for physical security staff, is a consequence of the lack of mandatory education.

Grade: 1 (one)

LEGITIMACY

When measuring the legitimacy of PSCs we must take into acccount private ownership, and competition to which these companies are exposed on the market. Statutory actors are funded from the state budget, by the taxpayer, and they discharge security duties necessary for the functioning of the state, regardless

of whether their operations are cost-effective or not. This is why legitimacy is important. On the other hand, PSCs are only employed by those who can afford them. Since PSCs are driven by profit, a lack of legitimacy would mean business failure. Consequently, it is possible to say that the volume of work (measured by the number of persons employed or by annual corporate profit) confirms the legitimacy of PSCs in Serbia. Private ownership and market orientation are the specificities of these companies, and as such PSCs are more concerned about clients than about public image, especially since "they are paid by the clients and not by the citizens paying their taxes."[617] On the other hand, as far as we can tell, there has been only one public opinion survey that examined citizens' trust in these companies conducted in 2008. According to this survey,[618] only 25 per cent of citizens trust PSCs and 44 per cent of them believe that PSCs reduce public security. This could be explained by the non-integratedness of PSCs in the national security system, as citizens do not perceive PSCs as legitimate national security actors (as a body with the right and obligations to take part in maintaining of national security).

Grade: 1.5 (one point five)

The total grade for security sector reform relating to private security companies is **1.5 (one point five)**. There are no main preconditions for better optimal functioning of this sector, and responsibility for this lies with the government and its legislative bodies. Deprived of appropriate legal guidelines, the private sector takes initiative and creates its own business strategies that differ from one company to another.

[617] Viewpoint of a representative of one PSC put forward in the public debate *Private Security Companies in Serbia – a Friend or a Foe?*, held in the Media Centre on 10 June 2008

[618] Survey RESOURCE 2008, conducted by CeSID in September 2008 in Serbia

Chapter IV

NON-STATUTORY ACTORS THAT DO NOT USE FORCE

1. Civil society organisations

Zorana Atanasović

Civil society is, in most general terms, a corpus of different, national and transnational, non-statutory, non-political, and non-profit organisations and institutions, founded by individuals or groups of people with the purpose to jointly achieve and/or protect particular individual, group, and/or collective interests.[619] This corpus includes a variety of citizens' associations, media, unions, educational institutions, research institutes, pressure groups, religious communities and sports associations.[620]

Consistent with this, civil society organisations (CSOs) can be defined as a form of self-organisation of civil society with the purpose of achieving and/or protecting specific interests or needs. The goal of their activity is not profit and, if they do, or when they do, they should invest these proceeds into future development. Also, their intention is not to win political power, or at least it is not in words. This makes them institutionally and functionally detached from government and political parties. However, this does not mean that they do not have significant political influence. Civil society organisations have flexible organisational structures and their members act autonomously in deciding about internal structure, control, and management.[621]

During the last couple of decades, civil society organisations have became actors in the security sector. Good governance of the security sector is not only effective exercise of the economic, political and administrative competences of government, but also requires the involvement of non-statutory actors in the control and oversight of state institutions.[622] This provides for a dialogue between government and citizens, which can raise public trust in the state and state institutions and authorities. Actors participating in public con-

[619] For more details about the concept of civil society, see: Marina Caparini, "Civil Society and Democratic Control and oversight of the Security Sector: A Preliminary Investigation," in *Sourcebook on Security Sector Reform*, eds., Philip Flury and Miroslav Hadžić (Geneva, Belgrade: DCAF, CCMR, 2004), 176-177.

[620] Broader definitions include the business community too.

[621] For more details, see: Srećko Mihailović, 'Kako NVO vide političku moć i kako politička moć vidi NVO u', u *Stručni skup: Analiza NVO okruženja - izazovi tranzicije*. (Beograd: ProConcept, Fond za otvoreno društvo-Srbija, 2005), 25-48.

[622] Caparini, Civil society and democratic control and oversight of the security sector: A preliminary investigation, 178–179.

trol and oversight of the security sector should, in synergy with governmental bodies vested with control and control and oversight powers, contribute to the achievement and maintenance of human and national security as a public good, and to the establishment of good governance in the political community (state) in question. For this purpose, CSOs oversee whether state enforcement apparatuses respect, and to what extent they operate in conformity with, the principles of constitutionality and lawfulness, and whether they comply with the requirements of professionalism and neutrality with regard to political parties and different interests. This in turn should help prevent the politicisation of state enforcement apparatuses, namely it should help prevent them becoming closed, self-sufficient and alienated centres of power.[623]

Below is an analysis the role of civil society organisations in the control and oversight of the security sector in Serbia. These organisations fall under the category of non-statutory actors that do not use force. They occupy Box D of the holistic matrix.

The role of civil society organisation in the Serbian security sector (before 2000)

First civil society organisations in Serbia appeared at the beginning of the 1990s, after the introduction of political pluralism.[624] Their development could be conditionally divided into three periods. The same periodisation applies to civil society organisations specialised in security issues. The first period covers the beginning of the 1990s when the first civil society organisations emerged. The second period took place between 1997 and 2000, when the number of CSOs increased considerably and the majority developed and acted as an opposition to the authoritarian regime. The third period began in the year 2000 and it is marked by efforts of the increasingly more developed civil society to take active part in the process of democratisation of Serbia.

Civil society organisations in Serbia were established based on the 1990 *Law on citizens' associations, social organisations and political organisations that are being founded on the territory of the SFRY*.[625] This new pace of the development of civil society in Serbia was accelerated by the wars in the former repub-

[623] According to: Nicole Ball, Tsjeard Bouta and Luc van de Goor, *Enhancing democratic governance of the security sector: An institutional assessment framework* (The Hague: Clingendael Institute for the Netherlands Ministry of Foreign Affairs, 2003), 67.

[624] According to: Žarko Paunović, 'Deset godina NVO u SR Jugoslaviji: od ilegalaca i neprijatelja do važnih aktera društvenih promena,' *Civilno društvo* website, http://www.civilnodrustvo.org/Tekstovi-za-sajt/Deset-godina-NVO-u-Srbiji.pdf [accessed 22 July 2008]

[625] Ibid, http://www.civilnodrustvo.org/Tekstovi-za-sajt/Deset-godina-NVO-u-Srbiji.pdf [accessed 22 July 2008]

lics of the SFRY, since the first initiatives of civil society were a response to these conflicts. The first initiatives of civil society from the beginning of the 1990s were related to safety issues, namely public desire to express, in an organised manner, their disagreement with government policy and to protest against the war. These initiatives were informal at first, but from these the first organisations sprouted (for instance, the Action for peace in Subotica in 1990, the Centre for anti-war action, the Vojvodina movement for peace founded in 1991 and the Fund for peace and crisis resolution from 1992). Civil society organisations opposed the war, violence and militarisation. Through their activities they developed an autonomous public sphere for debate and expression of civil disobedience in opposition to government policy. Moreover, they strived to raise public awareness on the importance of participation in debate concerning issues of interest for society.[626]

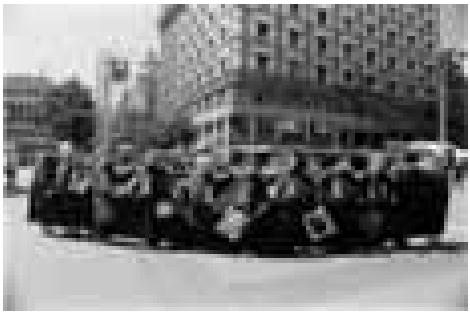

Illustration 1: 'Women in Black' during an anti-war protest in Belgrade[627]

At the time there was no consensus among political elites, government institutions, and civil society about the goals of social changes and how they could be achieved. Democratisation of Serbia, which most CSOs advocated since their foundation, was not a priority for government institutions. Consequently, government institutions and CSOs did not work together. Political elites and government institutions perceived civil society organisations as enemies and competition.

During the second period civil society organisations developed further and CSOs specialised in security issues appeared. Cooperation between government institutions and civil society organisations was absent during this period as well. The media called them enemies, traitors and spying organisations.[628] Frequent fiscal controls, police raids, and similar methods of obstruction and

[626] Ibid, http://www.civilnodrustvo.org/Tekstovi-za-sajt/Deset-godina-NVO-u-Srbiji.pdf (accessed 22 July 2008).

[627] Photograph taken from the website of the CSO 'Women in Black', http://www.zeneucrnom.org/

[628] Prema Tatjana Andrijašević, Gordana Popović, Ana Stanković, and Nada Veljković, 'Nevladine organizacije pre i posle 5. oktobra 2000: Nepotrebni prijatelji,' *Vreme* 678, Jan. 1, 2004.

intimidation were common. Regardless of this, CSOs continued to operate and the primary focus of their activities was the protection of human rights and minorities and informal education about democracy. By 1994, 196 CSOs were registered and in the course of 1997 their number increased to 695. In the end of 1990s, the number of CSOs rose at a greater pace and in 2000 there were about 2000.[629] During this period civil society organisations turned their attention to security topics.[630] Protection of human and minority rights and peaceful resolution of conflict were introduced in the political discourse. Thanks to CSOs, topics about which the public had little information before the late 1990s, such as civilian democratic control and oversight over the armed forces, civil-military relations, and civil-police relations, now became part of the political discourse. In this period they began to build capacity for overseeing the security sector, as well as mechanisms for the protection of human rights which the government was not able to provide for its citizens.[631]

Civil society organisations played an important role in the democratic overthrow in 2000. Besides motivating citizens (especially the young) to go out and vote, they established a partnership with opposition political parties fighting for political changes.

The third period commenced in 2000 and is still ongoing. The overthrow of the government in 2000 provided an opportunity to redefine relations between CSOs and government institutions. After government changes, the new political elite has included civil society representatives in government institutions and many experts have passed from the non-governmental to the governmental sector. Expert knowledge that existed in civil society has been incorporated into many laws and strategic documents.[632]

Eight years afterwards, however, the legal status of CSOs is still not properly regulated. The latest draft proposal for regulation of the sector was the *Law on associations* prepared in 2007 by the Ministry for Public Administration and Local Self-Government, in addition to a working group, alliances and associations, and representatives of CSOs. This draft has not yet reached parliamentary procedure. The work of CSOs is further impeded by the fact that laws applicable to

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[629] Andrijašević, Popović, Stanković and Veljković

[630] In this paper we use a broad definition where security is perceived as striving for freedom from threats.

[631] For instance, Group 484 has been providing humanitarian, psycho-social, legal, and informational assistance to refugees since 1995. A larger number of organisations, such as the Lawyers' Committee for Human Rights (YUCOM), the Fund for Humanitarian Law, Centre for Civil-Military Relations, the European Bureau for Conscientious Objection, and a larger number of organisations for human rights protection throughout Serbia, provide legal assistance and legal advice to citizens in specific situations (e.g. refugees, conscientious objectors, citizens subject to police torture, etc).

[632] For more information, see Miljenko Dereta, 'Civilno društvo i demokratija', *Mreža – specijalno izdanje*, no. 45 (May 2005).

their activities are the same laws that apply to the profit sector. In addition, the profit sector is not encouraged to invest in the activities of civil society.

It seems that, in the eight years since the democratic changes, the attitude of the public towards CSOs is still negative. According to a survey conducted by Smart kolektiv (Belgrade) in November 2006, in cooperation with Strategic Marketing, the public had poor understanding of CSOs' work and attitudes towards these organisations were ambivalent.[633] Just over half of respondents (54 per cent) knew what the phrase 'civil society organisation' meant, and almost half (47 per cent) had negative associations when this phrase was mentioned. A small proportion (14 per cent) believes that civil society organisations act in the best interest of Serbia. Moreover, they perceive CSO work as the least beneficial for affecting everyday life, and most beneficial in the provision of assistance to vulnerable populations (such as persons with specific needs and victims of domestic violence).

Civil society organisations are also unhappy with their working environment and their opportunities to influence reforms in society. According to a survey conducted by Civic Initiatives in 2005 on a sample of 516 CSOs,[634] more than half of these organisations (54 per cent) think that the current political climate in the country is highly unfavourable for the development of the non-governmental sector and 60 per cent consider cooperation between the government (at the time) and the NGO sector to be poor or very poor. One of the conclusions of the survey was that the NGO sector was not sufficiently interconnected and lacked a clear structure, as well as that intra-sectoral communication was under-developed. These inadequacies probably limit the influence that these organisations have on government policy. However, it was encouraging to learn that most donors taking part in the survey (41) believed that the situation in the NGO sector was similar to that in other countries in the region.[635]

After 2000, civil society organisations continued their research and educational work, as well as public advocacy in the security sector. Non-formal education programmes developed by civil society organisations offer citizens, media, and also representatives from the government sector the opportunity to gain further insight into security sector reform. During this period civil society organisations started to work together with representatives of government institutions. There are many examples of good practice. Since 2003, ISAC Fund (Belgrade) has organised ten one-week trainings entitled 'Security sector reform school' aimed at giving professionals to the opportunity broaden their knowledge and keep up with the trends. The Centre for Management (Belgrade) has

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633 'Javno mnjenje o organizacijama civilnog društva u Srbiji – Smart kolektiv i Strateški marketing,' (2006): http://www.smartkolektiv.org

634 *NVO sektor u Srbiji* (Beograd: Građanske inicijative, 2005). This publication is available at: http://www.gradjanske.org/admin/download/files/cms/attach?id=94.

635 *NVO sektor u Srbiji*, 82-93.

since 2001 organised ten modern anti-corruption methodology trainings with the aim of enabling employees who face corruption everyday to familiarise themselves with ways of recognising and tackling it. The Centre for Civil-Military Relations was the first CSO to organise, in 2004 and 2005, seminars on security sector reform in garrisons of Serbia and Montenegro, and European security architecture for the Ministry of Defence of SaM and SaM Armed Forces. Several CSOs organised post-graduate studies at the University of Belgrade.

Civil society organisations continue to develop research capacity and initiate major theoretical research. A good example of academic research is the research 'Mapping and monitoring of the security sector' conducted by the Centre for Civil-Military Relations in 2007–2008 to develop methods and instruments for measuring and overseeing security reform sector and its integration into Euro-Atlantic structures. Among research conducted with the aim of improving practical policy, a good example is research conducted by the European Movement in Serbia and KIPRED in 2005 'Joint European Vision'. This research addressed the issues of free movement of goods and people in Kosovo and Serbia. It was designed to encourage public debate and to act as a platform for shared paths towards reaching European standards and regional integration.[636] The Victimology Society of Serbia publishes an academic magazine, *Temida*, dealing with victimisation, human rights and gender. There are four issues a year.[637]

In the field of public advocacy, the period after 2000 saw examples of good practice in cooperation between CSOs and the security sector. One example was the educational promotional campaign 'November – the month of security', which Zaječar Initiative implemented in cooperation with the Police Directorate of Zaječar in November 2007. Joint action is still very important for success. An example is the joint initiative launched by 29 NGOs and members of acadeMoI. In late 2008 they asked the Ministry of Defence to extend the time limit envisaged for the public debate on the draft National Security Strategy and draft Strategy for Defence from the original insufficient 15 days to 45 days. The joint action by a large number of actors contributed to the Ministry of Defence's approval of this initiative.

Representatives of CSOs who participated in the research conducted by the Centre for Civil-Military Relations 'Increasing citizens' participation in security policy', noted that not enough CSOs in Serbia are interested in security matters. Most organisations dealing with security matters are located in Belgrade and civil society does not monitor the activities of some actors in the security sector (such as institutions having some police characteristics). Institutionalised cooperation between CSOs and government institutions is absent. According to the

[636] For more information, see the European Movement in Serbia website: http://www.emins.org/publikacije/knjige/index.htm

[637] See more information, see the Victimology Society website, http://www.vds.org.yu/temida.htm

experience of CSOs, it depends on personal contacts with representatives of the institutions.

Role of CSOs in Serbian security sector

In principle, CSOs in Serbia have several functions in the security sector. First of all, they support government institutions in the implementation of security sector reforms, which means that they are involved in drafting and in the public debate on constitutional-conceptual documents. They also organise the implementation of educational activities. Civil society organisations are among the sources of civil expertise and they provide expert support to government institutions in security policy creation and implementation. Several examples of good practice were noted with regard to the participation of CSOs in the legal drafting and organisation of different kinds of training.[638] Serbian CSO expertise also actively contributes to public debate on existing legislation.[639] As an alternative source of knowledge, civil society organisations may and should play an important role in education, i.e. in the process of acquiring new knowledge on security matters. To date civil society organisations have organised a number of different training programmes, from one-day seminars for representatives of ministries forming part of the security sector, to specialist and post-graduate studies at the University of Belgrade attended by representatives from the security sector.[640]

[638] Civil society organisations attempted to compensate for legal voids in the regulation of the security sector by preparing model laws. Thus, for instance, CSOs noted that private security companies in Serbia are not legislatively regulated and that there is a need for a law regulating their activities. Two organisations contributed to the achievement of this goal; the Centre for Civil-Military Relations, Belgrade, which prepared a model law on private security activities in 2005 (see more detail at: www.ccmr-bg.org); and the League of Experts, Belgrade, which prepared a model law on the private activity of protecting persons and property and detective activity 2006 (see more detail at: www.lex.org.yu).

[639] At the initiative of the Centre for Civil-Military Relations, for instance, the *Law on the Armed Forces of Serbia* (adopted in December 2007) was amended to ensure that, besides parliament, the Protector of Citizens and other government authorities in accordance with their respective competences, as well as citizens and public at large could be included in the democratic and civilian control and oversight of the Armed Forces of Serbia. For more information, see Đorđe Popović, 'Komentar Nacrta zakona o odbrani i o vojsci,' *Bezbednost zapadnog Balkana*, No. 7-8 (October 2007- March 2008): 120-131.

[640] Precise data about the number of seminars organised by CSOs are not available. The Centre for Civil-Military Relations has, since it was founded in 1997, organised about 70 seminars, attended by more than 1500 people. So far the Centre has organised two series of seminars for members of the military with a total of 700 participants. With regard to academic education, the Belgrade Centre for Human Rights has organised post-graduate studies 'Specijalističke strukovne studije humanitarnog prava i ljudskih prava' for three generations at the School of Political Sciences. At the same school, the Centre for Civil-Military Relations organised the 'Studies of Global and National Safety' for four generations of students.

The second role played by civil society organisations is to exercise public control and oversight of security policy. CSOs monitor developments in the security sector and ensure that security policy is a subject of public debate. There are two reasons why systematic public control and oversight of the security sector in Serbia is not developed. No individual CSO has the capacity to monitor the entire security sector on its own. Likewise, continuous monitoring of larger security sector institutions, such as the military or police, is not in place, and control and oversight of less visible government authorities (for instance customs) or non-government bodies (companies that provide the services of physical-technical security) is not even mentioned. The defence and security sector was the first to be subject to control and oversight and it was even part of a report on the control and oversight of government institutions. In these reports, information about the security sector or individual institutions occupied one or several chapters.[641] CSOs have developed control and oversight of specific areas. Since 1997, the Belgrade Centre for Human Rights has published a synthetic report on the human rights situation in the country, including judicial and police functions which affect human rights. Several organisations attend trials related to the protection of human rights and transitional justice in front of domestic and international courts.[642] There are other examples of overseeing security matters. In 2007, the Centre for Politics and Euro-Atlantic Partnership drew up an 'Overview of the situation of human security in Serbia.[643] Another example is the monitoring of how the National Anti-Corruption Strategy is implemented in parliament, conducted by Transparency Serbia. [644]

The third and equally important activity of CSOs is public advocacy for security sector reform implementation. Advocacy of security sector reforms has been marked with the activities of CSOs from the date they were founded to this date. Two examples are the right to conscientious objection and introduction of the institute of civilian service, following efforts by CSOs. After public pressure, the right to conscientious objection was regulated (admittedly with a by-law) by the adoption of the *Decree on Military Service* (27 August 2003). With this decree, a category of civilian service as an alternative to military service was officially introduced. Representatives from the European Bureau for Conscientious

[641] A.g., *Godišnji izveštaj: Srbija 2007, Samoizolacija: realnost i cilj* (Beograd: Helsinški odbor za ljudska prava u Srbiji, 2007). Publication available at: http://www.helsinki.org.yu/serbian/doc/izvestaj2007.pdf

[642] Monitoring of the trial is performed by the Belgrade Centre for Human Rights (for more details, see: http://bgcentar.placebo.co.yu/page_sr?tag=47@sr), Lawyers' Committee for Human Rights (for more details, see: http://www.yucom.org.yu), and the Fund for Humanitarian Law (for more details, see: http://www.hlc-rdc.org/)..

[643] For more information, see the Centre for Politics and Euro-Atlantic Partnership website,: http://www.atlanticpartnership.org.rs

[644] See more information at the Transparency Serbia website: http://www.transparentnost.org.rs/

Objection (EBCO) Balkan Section and civil society organisations from Belgrade took part in drafting the document.

Civil society organisations often advocate reforms in cooperation with related organisations and with media support. A successful example is the Coalition for Free Access to Information, founded in 2005. It was created in response to the need, by joint action, to exert pressure on the authorities– the government and parliament – to promptly pass the law on free access to information. The Coalition is made up of the following organisations: Belgrade Centre for Human Rights, Centre for Anti-war Action, Centre for Advanced Legal Studies, Fund for an Open Society, Citizens' Initiatives, Lawyers' Committee for Human Rights–Yucom and Transparency Serbia. With time, organisations from towns throughout Serbia have joined in the Coalition's activities. The Coalition has contributed to greater responsibility in implementation of the law, and also helped to make this topic relevant for the democratic process. This was done by drawing up the 'Guide for the implementation of law',[645] preparing a proposal of amendments to the existing law, preparing a law proposal on the classification of information and personal data protection which will render the existing law more efficient, proposing practical polices to contribute to better accessibility of information, organising debates, and informing the public about these issues.

Illustration 2: Poster of EBCO Balkan

[645] The Guide is available at:
http://www.spikoalicija.org/index.php?option=com_content&task=view&id=24&Itemid=48

Supervisory roles of CSOs

The role of civil society organisations in the security sector is primarily supervisory. Control and oversight and control are related terms. They imply subordination of the parties implementing them as well as specific subject matter. They also involve the influence of an control and oversight or control body on the person subject to control and oversight or control.[646] The difference is that control and oversight implies a continuous activity and control takes place once or more than once in the course of the control and oversight process.[647] The second difference is that control was envisaged and regulated in legislative regulations. A controller is vested with legal powers in respect of the controlled entity, as regards the matter being controlled.[648] This means that the control decision is legally binding for the institution subjected to the control, as opposed to control and oversight which results in non-binding recommendations. Accordingly, civil society organisations perform non-formal control of the security sector.[649]

Civil society organisations perform their control and oversight function by constantly bringing significant security related topics to public attention. This includes the writing of criticisms, proposals, objections and complaints about security sector institutions.[650] This helps promote accountability of all actors in the security sector.

Assessment of the control and oversight function of Serbian CSOs

An assessment of the capability of CSOs to oversee the security sector was made based on several dimensions, including capacity, the rule-of-law, transparency, integration of these organisations in the security sector, and legitimacy.

We evaluate the indicated dimensions based on available data on CSOs and empirical material collected as part of an independent survey conducted by the Centre for Civil-Military Relations conducted 'Increasing citizens' participation in the security policy' in 2007 and 2008. Forty-four civil society organisations identified by researchers in the NGO directory of the Centre for the Development

[646] According to: Zoran R. Tomić, 'Normativna polazišta za civilnu kontrolu vojske i policije,' in *Demokratska kontrola vojske i policije*, ed. Miroslav Hadžić. (Beograd: Centar za civilno-vojne odnose, 2001), 11-34.

[647] According to: Tomić, 12.

[648] According to: Tomić, 13.

[649] Bogoljub Milosavljević, *Građanski nadzor nad policijom: Mogući model za Srbiju* (Beograd: Centar za antiratnu akciju, 2004), 62-65.

[650] Milosavljević, 64.

of Non-Profit Sector[651] took part in this research. As the first empirical research conducted on CSOs involved in security, it comes with limitations. First of all, the sample of CSOs is, statistically speaking, small and as a result the conclusions are not completely reliable. Also, the CSOs themselves spoke about their activities, which put a question mark over the objectivity of findings. Considering available resources, this was the only way to collect this information. Another limitation is that right-wing movements and organisations did not take part in the survey and they are the ones most interested in security matters in Serbia.

Moreover, limited resources prevented the inclusion of a larger number of organisations outside Belgrade. Please note that this survey was a part of a pilot project and the experience gained on this occasion is a good basis for future research.

CIVIL SOCIETY'S CAPACITY TO OVERSEE THE SECURITY SECTOR

Several indicators were used to assess CSO control and oversight capacities, such as; the number of specialised CSOs and their fields of operation; size, personnel and technical capacity; neutrality in respect of political parties, ideology and interest (independence); funding sources and sustainability; existence of networks – national and cross-border, and; presence in the public and media.

The first indicator – the existence of CSOs interested in security – is a main precondition for inclusion of these organisations among non-statutory actors in the security sector. The broadness of these organisations' field of work is indicative of the development of the sector and the preconditions that should be met to enable participation in the debate on security issues and control and oversight of the security sector.

According to some estimates, Serbia now has more than 30,000 CSOs.[652] A large number of these organisations, however, are not active. The 'Directory of non-government organisations' made by the Centre for the Development of Non-Profit Sector is a dependable source of information about civil society. CSOs voluntarily apply for registration in the directory and, at present, there are 2041 registered organisations.[653] Of this number, 286 CSOs mention security matters, according to name or mission. This includes CSOs focused on the protection of human rights. This number does not include CSOs dealing with social-humanitarian problems (586). Research by the Centre for Civil-Military Relations

[651] For more information, see: http://www.crnps.org.yu/direktorijum

[652] According to Žarko Paunović, *Nevladine organizacije: potreba ili zavera* (Beograd: Demokratska stranka/istraživačko-izdavački centar, 2007), 8.

[653] For more information ,see: http://www.crnps.org/

has identified 44 CSOs dealing with security. Slightly less than one third (13) of CSOs stated that security is the main field of their interest. More than half (23) said that security is one field of interest. Eight CSOs which sporadically implement some activities in which security topics are represented also took part in the research. These CSOs address the most significant security issues, including; human rights, minority groups, military, police, security-intelligence community, corruption, organised crime, energy safety, terrorism, security co-operation and integration. Most CSOs focus on human rights and minority groups. This suggests that they were created because the public needed to organise itself to protect their rights. More than a third of CSOs are interested in security issues such as monitoring the military, police, and security-intelligence community. Interestingly, CSOs are also interested in highly specialised fields, such as in the energy security, for instance. This shows that these organisations are willing to specialise further. The fact that a large number of CSOs are interested in security issues and the fact that they monitor the most important actors in the security sector suggests that a prerequisite is in place for CSOs to take part in control and oversight of the security sector. This is only the first prerequisite considering that the number of organisations says nothing about the quality of their work.

Area	No. of CSOs	% of CSOs
Human rights	38	86
Minority groups (women, Roma)	27	61
Military	16	36
Police	18	41
Security-intelligence community	15	34
Corruption	19	43
Organised crime	16	36
Energy security	7	16
Terrorism	10	23
Security cooperation and integration	8	18

Table 22: Areas covered by civil society organisations[654]

A small number of CSOs conduct regular research, educational programmes, and public advocacy activities. These organisations' main field of interest is security.

Frequency of activities	No. of CSOs	% of CSOs
Security issues are regularly present in the research conducted by our CSO	13	29.5
Security issues are regularly a part of our public advocacy activities	23	52.3
Security issues are a part of educational activities regularly implemented by our CSO	8	18.2
Total	44	100

Table 23: Frequency of security related activities regularly implemented by CSOs

Almost all CSOs interviewed in this survey have done some security related research. The least frequently conducted is academic research, probably because of high scientific-methodological criteria, a lack of experts and/or knowledge, or due to orientation towards public advocacy, lobbying, and exerting pressure on authorities. Nine CSOs interviewed for the survey had conducted academic research. For instance, the Victimology Society of Serbia conducted research *People trafficking in Serbia*. This was the first research aimed at closer and more comprehensive insight into trafficking.[655] More than four fifths of CSOs carried out research with the goal of conducting analysis and providing recommendations for practical application. These included, for instance, public opinion surveys organised by the Centre for Civil-Military Relations and the Atlantic Council of Serbia which, at the time when they were conducted, were the only public opinion surveys addressing security related issues. Two thirds of CSOs have conducted research designed to draw up policy proposals and whose recommendations became part of documents drafted by the government. Recommendations of research conducted by the Centre for Minority Rights, *Protection of the Rights of Roma*, for instance, are included in action plans for Roma

[654] Overview of how security issues rank among the activities of individual organisations can be seen in the publication *Direktorijum organizacija i institucija zainteresovanih za bezbednosne teme* (Beograd: Centar za civilno-vojne odnose, 2008), 17-19.

[655] For more information, see: http://www.vds.org.yu/

adopted by the government in January 2005, and the Centre for Minority Rights is mentioned as a CSO responsible for overseeing their implementation.

Type of research activity	No. of CSOs	% of CSOs
Scientific / academic research	12	27,3
Practical research	37	84,1
Practical policy recommendations	21	67,4
Total	70	178.8

Table 24: Types of research activities implemented by CSOs[656]

Almost every CSO included in the sample has some form of educational activity, suggesting that organisations, as well as donors, recognise the importance of education. CSOs did not develop capacity to autonomously conduct training programmes since, as they themselves indicate, they normally outsource when they perform these activities. Evaluation of target groups, programmes and lecturers, and the number and profile of the participants in these programmes could provide information about the capacity of respective CSOs. This information goes beyond the content of the questionnaire used in this survey and the results below are only a starting point for future research of CSOs educational capacity.

Forms of educational capacity	No. of CSOs	% of CSOs
Trainings lasting more than five days	15	34.1
Seminars lasting up to five days	37	84.1
Conferences	30	68.2
Round tables	37	84.1
Total	119	270.5

Table 25: Forms of educational activities implemented by CSOs

Publications enable CSOs to share findings with large number of beneficiar-

[656] Sum total percentages in the columns equals more than 100 per cent because CSOs were given the option to chose more than one answer.

ies. Information collected in this survey relates only to the type of publications issued by CSOs. Almost all CSOs involved in this survey have issued some type of publication that refers to security topics.

Types of publication	No. of CSOs	% of CSOs
Books	26	59.1
Model laws	14	31.8
Analysis – scientific and practical	32	72.7
Journals	14	31.8
Bulletins	19	43.2
Brochures	28	63.6
Manuals	19	43.2
Total	152	

Table 26: Type of security related publications issued by CSOs

The results reveal that every CSO with any interest in security has publicly advocated security sector reform. More than half of CSOs have appeared in TV and radio programmes, and more than a third of them have participated in promotional activities, conferences and media releases. This leads to the conclusion that CSOs have the experience and capability to publicly initiate topics of interest for security. There is no doubt government institutions can count on co-operation with CSOs to inform the public about important security issues. Petitions to amend laws are the least frequently used method. The reasons are many. Besides getting the required number of signatures, the process of law adoption and amendments is protracted. Moreover, CSOs probably believe that some other public advocacy methods offer them more opportunity to achieve their goals and ensure results.

Forms of public advocacy	No. of CSOs	% of CSOs
Petitions for amendments to laws	4	9.1
Law proposals/drafts	18	40.9
Policy change campaigns	28	63.6
Promotional activity	30	68.2
Communications, media conferences	32	72.7
TV and radio programmes	25	56.8
Total	137	

Table 27: Forms of public advocacy implemented by CSOs

The second indicator is important because CSOs capacity is determined by the people who work for them. In our survey we tried to find out the profile of leaders, members, and associates of CSOs interested in security. According to CSO representatives, the number of associates varies depending on current projects and a reliable estimate would be hard to make. Most employees are university educated and are solely employed by the CSO. Teachers and/or researchers employed by universities or institutes account for more than half of CSO associates, increasing the likelihood that CSOs will be competent to oversee the security sector. According to the results of the survey, former members of the armed forces are willing to take part in the activities of these organisations. Their participation has a positive effect on raising capacity and capability in the CSO sector, considering that former members of the armed forces have knowledge of the security system 'from the inside'.

Technical facilities are prerequisites for efficiency and, due to a large number of CSOs, it is hard to appraise these competencies. Representatives of CSOs interviewed were content with their technical environment.

The third indicator – neutrality from political parties, ideology, or interest – is one of the preconditions for independent control and oversight. Cooperation between CSOs and political parties has existed ever since CSOs were founded. In the early 1990s, some CSOs joined together with opposition political parties to fight for democratisation and implementation of reforms in society. At the same time, ethno-nationalistic movements developed whose anti-democratic inclinations[657] were, inter alia, expressed by their view that civil society should not

[657] Vukašin Pavlović, 'Civilno društvo i politika' in *Između autoritarizma i demokratije: Srbija, Crna Gora, Hrvatska (Knjiga. 2, Civilno društvo i politička kultura)*, ed. Dragica Vujadinović, Lino Veljak, Vladimir Goati, Veselin Pavićević. (Beograd: CEDET, 2004)

oversee the security sector. The process of civil society development was similar in other ex-republics of SFRY.[658] A large number of CSOs supported opposition parties before 5 October 2000, either directly or indirectly. After the democratic changes, a number of people from the 'non-government' sector joined the 'government' sector. In this way, political parties were a channel through which the CSO 'elite' passed to the government elite.[659] Some organisations, such as G17 or Otpor, transformed into political parties, more or less successfully. Civil society organisations still support political parties' initiatives and their members belong to political parties. In this survey, about a quarter of CSOs stated that their associates are present or former political activists. Informal influence from political parties on CSOs is almost impossible to estimate.

Staff structure	No. of CSOs	% of CSOs
Teachers and/or researchers employed with universities or institutes	24	54,5
University-educated individuals to whom this is the only employment	39	88,6
Former members of the armed forces	5	11,6
Present or former political activists/political party activists	12	27,3
Journalists	9	20,5
Total	89	202,5

Table 28: Staff structure of CSOs interested in security issues

The fourth indicator concerns funding sources and sustainability. Data from the tables below suggest that CSOs rely primarily on foreign funding sources. Less than a third of CSOs have taken funds from Serbian government institutions and more than four fifths have received funds from foreign governments.

[658] Compare with Lino Veljak, "Civilno društvo i politika u Hrvatskoj", in *Između autoritarizma i demokratije: Srbija, Crna Gora, Hrvatska (Knjiga. 2, Civilno društvo i politička kultura)*, ed. Dragica Vujadinović, Lino Veljak, Vladimir Goati, Veselin Pavićević. (Beograd: CEDET, 2004)

[659] According to: Vladimir Goati, 'Partije i akteri civilnog društva u Srbiji,' in *Između autoritarizma i demokratije: Srbija, Crna Gora, Hrvatska (Knjiga. 2, Civilno društvo i politička kultura)*, ed. Dragica Vujadinović, Lino Veljak, Vladimir Goati, Veselin Pavićević. (Beograd: CEDET, 2004), 260.

CSOs' dependence on foreign funding sources, however, may result in their activities being directed by the interests of foreign donors. They may have to adjust their activities to priorities forced on them from outside. Another consequence may be that the local community perceive CSOs as 'foreign mercenaries'. This is why it is important for government institutions to understand the importance of independent control and oversight and to allocate funds for CSOs. These organisations do not plan their funding sources and they do not normally make five-year plans. A developed fund-raising plan is important for effective control and oversight of the security sector, considering that control and oversight is a long-term effort.

Domestic funding sources	No. of CSOs	% of CSOs
NGOs	10	22,7
Government institutions	12	27,3
Academic institutions	4	9,1
International institutions and organisations established in Serbia	34	77,3
Private foundations	8	18,2
Total	68	

Table 29: Domestic funding sources used by CSOs

Foreign funding sources	No. of CSOs	% of CSOs
NGOs	30	68,2
Governments	36	81,8
Academic institutions	12	27,3
International institutions and organisations	39	88,6
Private foundations	26	59,1
Total	143	

Table 30: Foreign funding sources used by CSOs

The fifth indicator relates to national and cross-border interconnectedness. Implementation of joint initiatives and activities increases the impact of CSOs

on processes and reforms in society. Almost half of CSOs taking part in the survey have continuous, and two fifths sporadic, cooperation with other organisations. About a third of organisations have formalised cooperation. Implementation of joint projects in which CSOs share responsibilities is still quite rare, which suggests that CSOs have failed to establish mutual trust.

Most CSOs acknowledge the importance of interconnectedness, considering that it increases visibility, impact, and the lawfulness of their activities. This is confirmed by data suggests that most CSOs (80 per cent) are members of mostly informal networks. Networks and coalitions are most represented in the activities of public advocacy, and examples of successful networks and collations include the Coalition for Free Access to Information, the Coalition of Women for Peace (which supports the implementation of UN Security Council Resolution 1325/2000[660]) and the Network of the Committees for Human Rights in Serbia (which provides free legal assistance to citizens in six towns of Serbia). Most CSOs taking part in this survey are members of the Federation of Non-Governmental Organisations (FENS), the largest domestic network with 519 member organisations. The Federation calls for the improvement of the position of CSOs. Joining the network is probably also a result of prevailing trends, taking into account that donors support joint action. A high percentage of CSOs belong to cross-border networks – international (55 per cent) and regional (25 per cent). However, almost half (45 per cent) belong to a domestic network. This data is not unusual considering foreign grants almost always specify affiliation to specific networks.

Membership	No. of CSOs	% of CSOs
CSO is a member of a network of institutions and/or organisations	35	80
CSO is not a member of a network of institutions and/or organisations	9	20
Total	44	100

Table 31: Membership in networks of institutions and/or organisations

The sixth indicator – presence in the public and media – is important considering that media constitute the most significant channel for the transmission

[660] This Resolution recommends that states build mechanisms for conflict resolution based on gender equality. For more information, see Women in Black website: http://www.zeneucrnom.org/

of information. Most CSOs had cooperation with the media. However, there is no regular empirical research about the CSOs presence in the media in Serbia. A good illustration of this is research conducted by Pro Concept in 2004 and 2005, analysing CSO work environments.[661] This research observed and analysed media reporting about CSOs. According to the results, CSOs receive only marginal publicity in the printed media. This is confirmed by the number of published articles (an average ten texts per journal in a month), and their structure (mostly short forms). Connotative value of the texts was negative in a high proportion (29 per cent), as opposed to affirmative (15 per cent). More than half of texts (56 per cent) transmitted the information neutrally. The context of reporting was especially negative with regard to CSOs dealing with war crimes and trials at the Hague War Crimes Tribunal. The above results lead to the conclusion that presence of these organisations in the media is not adequate and, therefore, their work is not fully accessible to the public.

Grade: 3 (three)

THE RULE OF LAW

The rule of law can be used to assess the legal status of CSOs. In other words, does it facilitate or impede control and oversight over the security sector, and what legal recourses are available to CSOs? For this purpose we have tried to evaluate whether provisions regulating the operation of CSOs comply with the legal system, whether constitutional and legal authorisations for participating in the control and oversight of the security sector are in place, whether legislative norms are in line with international standards, and how CSO funding and taxation are regulated.

CSOs are regulated by the *Law on social organisations and citizens' associations* of 1990. The law is outdated, inappropriate, and derives from the present Constitution and laws that refer to business activity in general terms (the *Accounting and auditing law*, the *Law on payment transactions and the Labour law*). It can be therefore said that legislation concerning the CSO sector is not harmonised with the legal system.

The Constitution does not explicitly define the right for civil society to take part in control and oversight of the security sector. Laws adopted after 2000 offer some instruments that enabled society and citizens to participate in control and oversight of the security sector. The *Law on Armed Forces* is the only law that

[661] ProConcpt and Open Society Fund – Serbia, Professional Gathering 'Analysing the NGO Environment – Challenges and Transitions' (June 2005); http://www.proconcept.rs/prog-civilno/zbirna_analiza.pdf

contains a provision on citizens' democratic control and oversight.[662] The *Law on defence*[663] and the *Law on police*[664] also introduced a possibility for including citizens in the implementation of security policy and control and oversight of the security sector. The *Law on free access to information of public importance* as well as the *Law on public procurements* offer CSOs and citizens some instruments that enable them to exercise public control and oversight. The *Law on public procurements* defines the transparency of public procurements, and the *Law on free access to information of public importance* introduces the term 'information of public importance.' A claimant can turn to the Commissioner for Information if he is not provided with suitable information. However, these laws have some deficiencies. The *Law on Armed Forces* provision relating to citizen inclusion is overly generalised and is unclear what mechanism can be used to exercise this control and oversight. The *Law on free access to information* does not contain any penal provisions to sanction non-observance and it therefore common that institutions fail to respond to requests from civil society.[665] Data presented by the Commissioner for Information of Public Importance confirms that the security sector is the least transparent part of the public administration. According to this information, the two institutions which have disregarded the most citizens' requests and failed to provide information to the public are the Security Intelligence Agency and the Ministry of Interior.[666] Secondly, the absence of legislation on the classification of secret information means that information is unnecessarily designated as secret. This limits the participation of civil society in public control and oversight.[667] According to research conducted by the Coalition for Free Access to Information, the law on data classification

[662] According to *Zakon o* vojsci, čl. 29, Službeni glasnik RS, br. 116–07.

[663] Compare with: Zakon o odbrani, Službeni glasnik Republike Srbije 116-07, član 76

[664] Compare with: Zakon o policiji, Službeni glasnik Republike Srbije, 101-2005, Art. 6, 180, and 188

[665] In 12 months of monitoring the implementation of the *Law on free access to information of public importance*, the Youth Initiative for Human Rights submitted 747 requests for free access to information and 214 complaints to the Commissioner because of incompliance with the Law. Based on these submissions, the Initiative initiated ten minor offence proceedings, inter alia, against the Security Intelligence Agency, the Ministry of Interior and the Ministry of Justice. For more information, see the Youth Initiative for Human Rights website: http://www.yi.org.yu/actions.php?id=5&lang=_bhs

[666] For more information, see the annual reports of the Commissioner for Information of Public Importance at the Commissioner's website: http://www.poverenik.org.yu/dokumentacija.asp?ID=6

[667] One example is the rejected request from B92 TV to the Ministry of Interior for the official record of the interview with Milorad Ulemek, the first defendant in the assassination of Zoran Djindjic, given on the night of his surrender. The Minister of Police stated that the record could not be presented while court proceedings are still in progress. The spokesperson for the District Court Special Department, however, stated that this official record is of no value since the court does not address issues outside those contained in the bill of indictment for the assassination. For more information, see the Coalition for Free Access to Information website: http://www.spikoalicija.org/index.php?option=com_content&task=blogcategory&id=71&Itemid=59&limit=9&limitstart=18

is needed to enable full legislative regulation in this field.[668] The *Law on public procurements* (article 7) defines confidential procurements which are exempt from public insight.[669]

The following international regulations the activities of civil society; the UN Universal Declaration on Human Rights, International Pact on Civil and Political Rights, and the European Convention for the Protection of Human Rights. The operational standards for CSOs are defined in the OSCE Code of Conduct on Politico-Military Aspects of Security. [670]

The right of association is the first standard recognised by the UN Universal Declaration on Human Rights, the International Pact on Civil and Political Rights, and the European Convention for the Protection of Human Rights. Freedom of association is incorporated in article 55 of the Serbian Constitution, which reads; "Freedom of political, union and any other forms of association shall be guaranteed, as well as the right to stay out of any association." Secondly, the right to take action and for action to be free and protected from government interference, is provided for by the International Pact on Civil and Political Rights and the European Convention for the Protection of Human Rights. This right is also regulated in article 55 of the Constitution. It spells out that; "Associations shall be formed without prior approval and entered in the register kept by a state body, in accordance with the law." Thirdly, there is the right to freedom of expression and communication with domestic and international partners. In Serbia, respect for this right is confirmed by data presented in this chapter about CSOs co-operation and networks. Fourth is the right for organisations to request and provide operating funds from legal sources. More precisely, it provides that regulations do not prevent organisations receiving funds from abroad. Although this is not incorporated into domestic regulations, it can be concluded from the survey of CSOs interested in security issues that the government does not prevent organisations from seeking operating funds. Most of the organisations receive funds through foreign grants and the government does not encourage any funding of civil society activities.

[668] Analysis is available at the Coalition for Free Access to Information website: http://www.spikoalicija.org/

[669] Article 7, paragraph 4 reads that "procurements for which specific regulations provide that they can be declared confidential and with regard to which the competent authority, based on its powers referred to in the specific regulation, has issued a decision to designate them confidential, in view of the fact that security of the state or citizens could be affected by unauthorised persons' knowledge that such procurements are being implemented or knowledge that the objects of procurement have particular specifications or that procurement is implemented from a particular bidder."

[670] More detailed analysis of internationally-recognised rights can be found in the report of the International Centre for Not-for-Profit Law (ICNL) and the World Movement for Democracy Secretariat at the National Endowment for Democracy (NED); *Defending civil society: A report of the World Movement for Democracy* (February 2008):http://www.wmd.org/documents/Defending%20Civil%20Society%20-%20English.pdf

The OSCE 'Code of Conduct on Politico-Military Aspects of Security' lists international standards in the field of security. Part VII of the Code (paragraph 20) recommends integration of the armed forces with civil society as a key expression of democracy. Although general in nature the provision underlines the importance of democratic legitimacy of the security sector. The participation of civil society in democratic civic control, understood in general terms, is recognised in the *Law on Armed Forces.* Article 29 states that "democratic and civilian control of the Armed Forces of Serbia shall be exercised by the parliament, the Protector of Citizens, and other government authorities, in accordance with their respective competences, citizens and the public." International norms provide a general framework for enabling CSOs to act freely and express their interest in security issues.

Legislative provisions governing the funding and taxation of CSOs are identical to regulations applying to any legal person. They oblige organisations to open a bank account, to maintain funds and make payments through that account, in accordance with the *Law on payment transactions*. All legal persons are obliged to keep business books. They must prepare financial reports according to the *Accounting and auditing law*. A CSO that employs people for specific jobs has, according to the *Labour law*, all the rights and obligations as any other employer. The law does not regulate nor stimulate funding (by exempting donors from tax liability) and does not provide tax discounts for CSOs.

Grade: 2 (two)

TRANSPARENCY

CSOs are not subject to the provisions of the *Law on free access to information*, since they are not founded or funded by government bodies. All CSOs taking part in this survey are citizens' associations and, therefore, do not fall within the scope of the law.

Financial transparency is guaranteed by legislative provisions which oblige CSOs to keep business books and to prepare financial reports prescribed for all legal persons (the *Accounting and auditing law*).

Transparency of CSOs is important because, by disclosing information about their activities and business operations, they set a good example of business practices, avoid secrecy, and the build trust of both actors in the security sector and the general public. To observe transparency of CSOs we have included the following indicators; public accessibility of information about CSO missions, competences, and scope, as well as about projects and actions. In addition, there is also public accessibility to information about CSO funding sources and about the way grants are spent.

A large number of CSOs in Serbia have websites which provide information about their aims and work. Only two (out of 44) CSOs covered by this research do not have a website. The websites provide information about organisational structure, mission, and activities. In most cases it is also possible to download publications, and some of them offer the data about the number of hits.

In most cases donors oblige CSOs to present the information about where they receive support. CSOs are accountable to donors with regard to the use of resources and the public is usually not allowed insight into funding sources and the way in which the funds are spent. Independent audits are not legal obligations and there is practically no information about which CSOs have implemented such financial scrutiny. Information on CSOs budgets is not publicly available.

Information about CSO activities is generally available through their individual websites but CSOs are still not financially transparent.

Grade: 2.5 (two point five)

INTEGRATEDNESS OF CSOs IN THE SECURITY SECTOR

Integratedness of CSOs was measured by two indicators. The first implies that the position of CSO in the security sector must be recognised and defined in regulatory and strategic documents. The second indicator relates to the actual participation of CSOs in the process of security policy creation and implementation.

The existing laws governing the security sector require the Armed Forces to consult civil society when creating and implementing security policy. Through interviews with the Serbian Ministry of Defence we have learnt that there are no internal rulebooks that specify cooperation between the Ministry and CSOs. Cooperation normally depends on informal contacts. There is no institutionalised cooperation involving CSOs and the authorities. The Government of the Republic of Serbia Office for EU Integration has, however, signed 'Memorandums on cooperation in the European integration process' with more than 30 CSOs, and has designated priorities as cooperation in education and training, agriculture, youth policy issues, protection of human rights, and environmental protection.[671]

Initiatives for cooperation almost always originate from CSOs and their success is usually determined by daily politics. Some attempts have been made to build mechanisms for institutionalising cooperation between government and

[671] See more detail at the Office for EU Integration website: http://www.seio.sr.gov.yu/code/navigate.asp?Id=192

civil society, such the 'National Covenant on the EU', which is intended to gather together all actors involved in the process of EU integration. Moreover, this should enable dialogue between the government and the non-government sector. The Covenant has a working group dealing with the judiciary, freedom and safety.[672] The Covenant was launched in 2006, but the idea did not progress due to the existence of 'technical' government and interruption of EU negotiations. It was launched again in late 2008. The Covenant will make recommendations to the government in regard to taking positions, implementing actions, and preparing strategies related to particular issues.

Accordingly, we conclude that civil society organisations are not integrated into the security sector. However, the grade for this indicator takes into account efforts to institutionalise cooperation since 2000.

Grade: 2 (two)

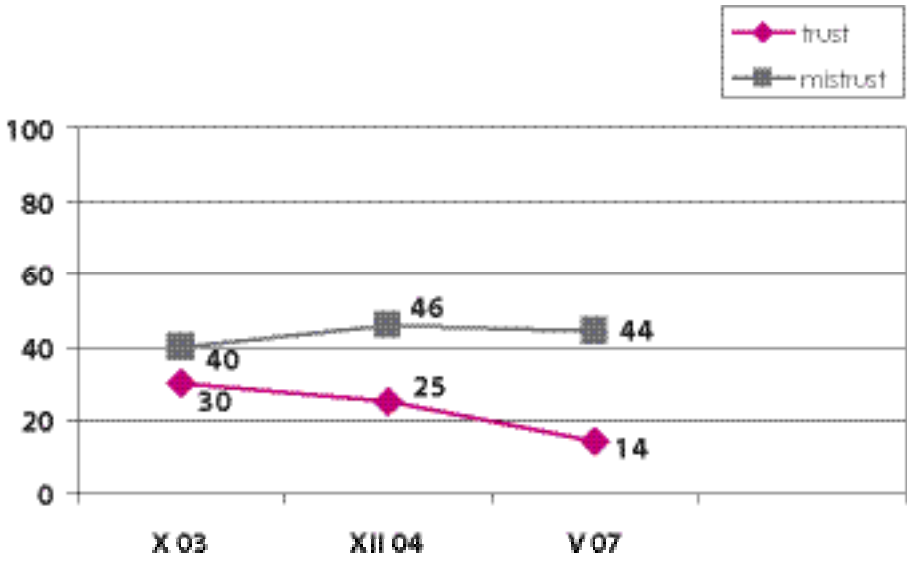

Chart 17: Trust in NGOs [673]

[672] See more detail about the structure and work groups of the National Convention on European Union in Serbia at the European Movement in Serbia website: http://www.emins.org/projekti/aktivni/nkeu/index.htm

[673] Note: The result for 2007 was based on the integrated results about trust in domestic and foreign NGOs. The graph shows results of a survey conducted by the Institute of Social Sciences Centre for Politicological Research and Public Opinion, Belgrade. Source: http://www.idn.org.yu

LEGITIMACY

The Serbian public expresses extremely low levels of trust in civil society organisations. Since 2000, surveys conducted by the Institute for Political Sciences have shown that distrust exceeds trust.[674]

There are many reasons for this situation. A survey conducted in late 2006 suggested that distrust is caused partially by a lack of information about the activities of CSOs. According to the survey, only 16 per cent of respondents know about the issues tackled by CSOs and more than two fifths cannot name a single CSO. The survey also found that the citizens do not believe that CSOs have a deep impact on society and do not recognise them as actors in security sector reform. Further, citizens tend to associate the work of CSOs with human rights and assistance to vulnerable groups. It is, however, not possible to grade the neutrality or independence of these organisations since they were not covered by the public opinion survey. Nevertheless, it is highly likely that the negative image of CSOs in the media has contributed much to this negative image.

Grade: 2 (two)

[674] See more detail at the Centre for Politicological Research and Public Opinion website: http://www.cpijm.org.yu/

PART FOUR

1. Chronology of Security Sector Reform in Serbia 2000–2008[675]

2000

October

5. The Democratic Opposition of Serbia (DOS) organises huge demonstrations in Belgrade and other cities and towns between 24 September and 5 October following fraudulent presidential elections. As a result President Slobodan Milosevic resigns and Vojislav Kostunica becomes president. According to official results, Kostunica receives 2,470,304 votes (50.24 per cent) compared to 1,826,799 votes (37.15 per cent) for Milosevic.

7. The FRY parliament is constituted and Vojislav Koštunica is sworn in. Over the following days Kostunica meets with numerous statesmen. The EU and USA abolish economic sanctions, starting a process of reconciliation and normalisation of relations with the West and neighbouring countries.

9. Parliament passes a vote of no confidence in the government and a new transitional government is formed. New parliamentary elections for Serbia are also declared. A coalition government is formed and signed on 16 October by the Socialist Party of Serbia (SPS), the Serbian Renewal Movement (SRM) and the Democratic Opposition of Serbia (DOS). Senior SPS member Milomir Minic becomes prime minister and Nebojsa Covic (DOS) and Spasoje Krunic (SRM) become vice presidents. The Ministry of Interior is 'divided equally' between three equally responsible co-ministers, Slobodan Tomovic (SPS), Stevan Nikcevic (SRM) and Bozidar Prelevic (DOS).

25. The FRY officially becomes a full member of the Stability Pact for South-East Europe.

31. At the request of the SRM, the Supreme Court Judge Balsa Govedarica and Chief Republic Prosecutor Dragisa Krsmanovic are replaced. However, Radomir Markovic remains director of the security services, generating a crisis in the newly formed transitional government. The SRM and DOS threaten to withdraw from the government if Markovic is not replaced. This move is strongly opposed by President Vojislav Kostunica.

[675] Prepared by Iztok Bojović

November

1. The FRY joins the UN as a new state.

4. During a joint session of both upper and lower parliamentary houses, the new federal government is elected, containing ministers from the DOS, Socialist People's Party of Montenegro (SNP), Serbian People's Party of Montenegro and Group 17 Plus (G17 Plus). Zoran Zizic from the SNP is elected president.

10. The FRY is accepted as a member of the OSCE.

24. At a summit of EU and Western Balkan states held in Zagreb, the FRY is invited to start accession talks for the Process of Stability and Accession. During the same meeting a 'Final Declaration' is adopted, representing a key turning point in the development of political and economic relations with the EU.

December

14. The FRY government establishes the National Defence Council. Federal Prime Minister Zoran Zizic is elected as president of the council. Defence Minister Slobodan Krapovic also becomes a member of the council. Federal Finance Minister Dragisa Pesic announces that the council is an operational body of the government, whose main role is advisory and the council will not interfere with the work of the Supreme Defence Council (SDC).

23. With 176 seats out of 250, the DOS wins a landslide victory in the first parliamentary elections of the post-Milosevic era. The SPS receives 37 seats, the SRS 23 and the Party of Serbian Unity 14.

26. The Supreme Defence Council, chaired by Vojislav Kostunica, adopts new arrangements for state border security, disbanding the Supreme Army Command, and transforming the organisation of the Yugoslav Armed Forces (VJ). Protection of confidential defence data is adopted.

26. Both houses of the Yugoslav parliament pass the budget for 2002. Defence receives RSD 43.5 billion, out a total of RSD 65.9 billion. During the same session the *Law on the Yugoslav Armed Forces* is passed, shortening military service to nine months and reducing civilian service from 24 to 13 months.

2001

January

11. The OSCE mission in the FRY is established.

22. The constitution of the New National Assembly of Republic of Serbia.

25. The Serbian parliament elects a new government. Zoran Djindjic becomes prime minister.

25. The head of the Secret Service (RDB) Rade Markovic resigns and is re-

placed by Goran Petrovic, who was officially dismissed on 20 May 1999 for disclosing state secrets.

30. Following the dismissals of the chief of public security (RJB) General-Colonel Vlastimira Djordjevica and the head of the Police Directorate Obrad Stevanovic, the government appoints Lieutenant-General Sreten Lukic (who was in charge of all Ministry of Interior units engaged in Kosovo since 1998, and both deputy chief of the Public Security Directorate and head of the Department of Border Police within the MoI since June 1999) as chief of the RJB and as aid to the Minister of Interior. Charges are later brought against both Sreten Lukic and Vlastimir Djordjevic at the Hague Tribunal for crimes in Kosovo.

February

24. Radomir Markovic (former chief of the Secret Service) is arrested, along with two other suspects, in relation to the deaths of four SRM members and the injuring of SRM leader Vuk Draskovic in October 1999.

March

4. The Yugoslav Armed Forces enter the Ground Safety Zone, after successful cooperation between Yugoslav authorities and NATO in south Serbia.

April

4. A department for combatting organised crime is created (UBPOK). Radovan Knezevic is appointed chief and Captain Dragan Karleusa becomes deputy.

May

22. and 30. Following a public outcry, the Serbian government adopts the *By-law (ordinance) on the removal of the confidentiality seal from the dossiers held on citizens of the Republic of Serbia in the state Security Service*, as promised before the election. The name of the by-law is subsequently changed to the *By-law on the look-for of certain dossiers held on citizens of the Republic of Serbia in the State Security Service*. This change means that all 'open' dossiers which relate to internal enemies, or internal extremism and terrorism, are state secrets. They cannot be removed from the premises, photocopied, copied, or spoken about to others.

June

25. The Gendarmerie is established as a unit of the Ministry of Interior.

28. Former president of the FRY, Slobodan Milosevic is extradited to the Hague Tribunal, following a decree from the Serbian government. Slobodan Milosevic, along with four other highly ranked officials, were indicted on 24 May 1999 for crimes against humanity committed during the first half of 1999. FRY President Vojislav Kostunica calls the extradition of Slobodan Milosevic unconstitutional. Montenegrin President Milo Djukanovic and Prime Minister Filip Vujanovic express their support for the extradition.

July

14. The Serbian government announces that 50-60 bodies have been found in a refrigerator truck which surfaced in an artificial lake at the Perucac hydropower plant.

24. The FRY parliament elects a new federal government. Dragisa Peric of the Socialist Peoples Party of Montenegro is elected prime minister.

August

3. Momir Gavrilovic of the RDB is murdered in Belgrade. The assassination creates a political crisis in relations between FRY President Kostunica and Serbian Prime Minister Djindjic, as well as between the two ruling parties - DOS-DS and DSS. Media stories appear saying that just before his murder, Gavrilovic was handed information, about the links between organised crime and officials within the Serbian government.

31. A parliamentary commission adopts a report on the 'Pavkovic affair'. The report states that on 5 June 2001 the Special Forces of the Yugoslav Army (VJ) attempted to take over the Serbian government's Bureau for Communication, because of alleged phone tapping ordered by President Kostunica. Athough the President and his advisers refuse to give testimony, according to retired Chief of Staff General Nebojsa Pavkovic, it is concluded that an adviser of President Gradimir Nalic issued the order.

September

24. The FRY rejoins Interpol. The country was expelled in 1993 because membership could not be automatically transferred from the Socialist Federal Republic of Yugoslavia (SFRY).

November

9. The Special Operations Unit (SOU) blocks the road to their training base in Kula in protest against the arrest and extradition of the Banovic brothers to the

Hague. The protesters fear further arrests within their ranks. After unsuccessful negotiations with Prime Minister Djindjic, the blockade extends to the whole training base as well as partially to the highway through Belgrade. An additional reason for the rebellion is the first court hearing of Miodrag 'Legija' Lukovic as a witness in the 'Ibar highway' case. There are calls for the resignations of the Minister of Interior, Dusan Mihajlovic and the RDB chief Goran Mihajlovic. Minister Mihajlovic offers to resign but is refused by the government. Milorad Ulemek plays a key role in organising the protests. Since leaving his post as commander of the SOU, Ulemek still commands huge respect and influence among criminal elements. Velimir Ilic, minister and president of the New Serbia party supports the protests and calls their requests justified. Vojislav Kostunica does not condemn the protests, indirectly condones the actions of the SOU and officially states that the security of the citizens is not endangered.

14. The Serbian government accepts the resignations of RDB chief Goran Petrovic and his deputy Zoran Mijatovic, but refuses to accept the resignation of the Minister of Police, Dusan Mihailovic. It is also decided that the unit will be put under the command and responsibility of Public Security section of the MoI.

27. A compromise is found to end the SOU protests. Andrija Savic becomes chief of the RDB and Milorad Bracanovic (former aid to the commander and head of the Intelligence and Counter-intelligence Department of the SOU) his deputy. The former chief of the RDB is appointed to the Ministry of Foreign Affairs as head of the Department for Research and Documentation. Milorad Bracanovic was previously head of the Intelligence and Counter-Intelligence Department in the SOU and Miodrag 'Legija' Lukovic's deputy in 1999 and 2000, during which time Ivan Stambolic and Slavko Curuvija were assassinated and an assassination attempt was made on Vuk Draskovic. Milorad Bracanovic's appointment is a condition of the SOU protesters. After the protests end, command of the SOU moves from the auspices of the RDB to the Ministry of Interior. The government thus loses control over the RDB, and with the appointment of Bracanovic, 'Legija' and the other members of 'Zemun clan' secure the influx of the confidential information from the highest level.

2002

January.

11. The Serbian government form the National Council for State Security. Zoran Djindjic becomes president. The council will oversee the operational actions of the RDB until the full implementation of parliamentary control and oversight.

15. The SOU is transferred from the RDB and becomes a separate unit, solely responsible to the MoI.

29. Both houses of the federal parliament elect Velimir Radojevic, from the Socialist People Party of Montenegro as defence minister, following the resignation of his predecessor, Slobodan Krapovic on 16 January.

February

2. Efforts to create a National Council for State Security at the federal level, as called for by President Vojislav Kostunuca, fail due to a lack of political will and declarations from Montenegro that the FRY president does not have the authority to form such a body.

27. As part of the rationalisation and reorganisation process, the Air Command, the Command of PVO and the Naval Command, as well as the Command of the Second Army of Yugoslav Army in the city of Nis cease to exist. The new organisational scheme introduces nine corps (six ground corps in Novi Sad, Belgrade, Uzice, Podgorica, Nis and Pristina, and air corps, PVO corps and naval corps), the Guard Brigade and army services brigades. The reorganisation is based on the decision of Supreme Defence Council made in December 2001.

March

14. In Belgrade, FRY President Vojislav Kostunica, Montenegrin President Milo Djukanovic, vice President Miroljub Labus, the prime ministers of both republics Zoran Djindjic and Filip Vujanovic and EU High Representative Xavier Solana sign an agreement to change the name of the state union to Serbia and Montenegro.

14–16. Several arrests are made on charges of spying and disclosing confidential information. Those arrested include members of the Military Intelligence Agency of the Yugoslav Army, the Vice President of the Republic Government and the President of the Movement for Democratic Serbia Momcilo Perisic, Lieutenant-Colonel Miodrag Sekulic, Federal Ministry of Interior employee Vladimira Vlajkovica, and John David Neibour, staff member in the US Embassy in Belgrade. President Kostunica declares the legality of the procedure in the 'Perisic case'. This is disputed by Zoran Djindjic who questions not only civilian control over the Military Intelligence Agency, but also control within the military itself, given that neither civilian top officials nor military official receive any advance knowledge about the arrests. The US strongly protests against the arrest of a high ranking diplomat. Since republic and federal officials are not informed about the arrests, the 'Perisic case' is held up as evidence of the lack of civilian control over the armed forces. There are calls to bring forward the *Law of Security Services* currently being drafted.

April

10. The FRY parliament, passes a law on cooperation with the Hague Tribunal which allows for the extradition of citizens accused of war crimes.

25. The federal government announces that the FRY will join the Partnership for Peace programme (PfP).

June

10. General-Major Bosko Buha, assistant to the head of RJB within the Serbian Ministry of Interior, is assassinated in Belgrade.

24. President of the FRY Vojislav Kostunica fires the Chief of the General Staff of the Yugoslav Army Nebojsa Pavkovic due to charges against him at the Hague Tribunal of war crimes and crimes against humanity committed in Kosovo during the spring and summer of 1999. General-lieutenant Branko Krga is appointed Chief of General Staff. Prime Minister Zoran Djindjic declares that Vojislav Kostunica should not have acted without the agreement of VSO, which is disputed by Goran Svilanovic, Minister for Foreign Affairs.

July

2. The *Law on the Security Services of the FRY* is adopted, regulating the work of the Military Security Service and the Military Intelligence Agency within the federal government, as well as the work of the Agency for Research and Documentation and Security Service within the Ministry of Foreign Affairs. The law regulates the Security Services for the first time under democratic and civilian control.

18. The *Law on the Security Intelligence Agency* (SIA) is passed. The RDB changes its name to SIA and becomes an autonomous body directly under the command of the Serbian government. However, according to local and foreign experts as well as the European Commission, the law does not satisfactorily regulate democratic and civilian control and control and oversight of the SIA, nor human rights.

August

28. The Serbian Ministry of Interior announces that more that 340 bodies have been found.

September

18. A court in Belgrade announces at least 269 bodies - mostly Albanian nationals - have been found in a mass grave in Batajnica, near Belgrade.

December

6. After several months of negotiation, The Constitutional Commission uniformly adopts the Constitutional Charter of the State Union of Serbia and Montenegro.

20. NATO and the FRY reach an agreement for the use of Yugoslav airspace for the needs of NATO missions in Bosnia and Kosovo. A NATO/FRY Technical Committee is founded.

24. The director of the SIA and Minister of Interior produce clearly defined methods of cooperation; *Instructions about obligatory procedures and ways of cooperation between the Serbian Intelligence Agency and Ministry of Interior*.

2003

January

23. Andrija Savic, director of the SIA and deputy Milorad Bracanovic are removed from their positions. Prime minister, Zoran Djincic is dissatisfied with changes in the security sector, particularly in the SIA, as well as in the police. He is also dissatisfied with the failure to locate and arrest Hague Tribunal inditees and the lack of success in the fight against organised crime. Misa Milicevic and Goran Zivaljevic are appointed respectively as director and deputy.

February

4. The new Constitutional Charter of the FRY establishes the State Union of Serbia and Montenegro (SaM). According to the charter, the Armed Forces of Serbia and Montenegro are under democratic and civilian control. Their task is the defence of the state in accordance with the Constitutional Charter and the principles of international law which regulate the use of force. The Supreme Defence Council comprises the SaM president and the presidents of the member republics. Conscripts are to serve on the territories of their respective republics, with a possibility to serve in other member state. The SaM Constitutional Charter does not foresee parliamentary control and oversight of the security services.

21. An assassination attempt is made against Zoran Djindjic in Belgrade. The driver of the lorry, Dejan Milemkovic Bagzi (a member of the 'Zemun clan'), tries to escape, but is apprehended. After only 24 hours in custody, Bagzi is released by the District Court. The official explanation given is a lack of legal grounds for further detention.

March

12. Prime Minister Zoran Djindjic is assassinated. A state of emergency is declared by Natasa Micic, acting president of Serbia. The state of emergency gives the director of the MoI the right to order special measures such as (telephone) tapping and the opening of private correspondence without court authorisation.

18. Zoran Živković, deputy president of the DS, is elected prime minister.

25. The Special Operations Unit of the MoI is disbanded. The investigation into the assassination reveals the involvement of the commanding elite and a large number of its members.

April

2. The *Law on Ministries* is adopted, which removes discrepancies between the authorities of the MoI and SIA.

3. The State Union of Serbia and Montenegro becames a full member of the Council of Europe.

6. Milorad Bracanovic, former deputy director of SIA, is arrested. He served as deputy director between November 2001 and January 2003.

8. General Aco Tomic, former chief of military intelligence is arrested alongside Rade Bulatovic, former security advisor to Vojislav Kostunica. Both are charged with collaboration with the 'Zemun clan'. Vojislav Kostunica declares that Rade Bulatovic is a political prisoner.

15. The Supreme Defence Council adopts a decision to form the Military Security Services under the auspices of the MoD of SaM. This puts military security under civilian control, i.e. under the jurisdiction of MoD, for the first time since 1945.

19. The SaM parliament establishes the 'Commission for control of security services of SaM'.

22. The state of emergency ends. In the meantime more than ten thousand people have been apprehended and more than four thousand detained.

May

6. The Supreme Defence Council adopts a decision that declares that the General Staff of the Armed Forces of Serbia and Montenegro is to become an organisational unit of the MoD. The new 'organisational jurisdiction of the MoD' is a key element in the reform of the Armed Forces. As a result, all employees in the Armed Forces become employees of the MoD.

22. At the Regional Conference of Border Security in Ohrid (Macedonia) organised by the EU, OSCE, NATO and PfP for South-East Europe, the document *Common platform of the Ohrid regional conference on border security and man-*

agement is unanimously adopted. States in the region commit themselves to the establishment of open but controlled and safe borders, and the strengthening of regional ties within the framework of EU accession.

June

19. The Serbian Constitutional Court declares that the *Governmental Decree by the Government of Republic of Serbia about the possibility of inspection of some of the secret files about the citizens of the Republic of Serbia in the Security Service* is unconstitutional. The court rules that the government has exceeded its authority by adopting the decree, stating that it has only the power to adopt legal documents which regulate execution of the law, and not those which regulate specific areas. Following the ruling, the legislation regulating the opening of the secret files is not adopted.

July

4. Rade Bulatovic is released from detention following his arrest during the 'Sabre' police operation for alleged connections with the 'Zemun clan'.

17. General Nebojsa Pavlovic, former chief of staff of the Yugoslav Army is released from detention following his arrest for alleged involvement in the assassination attempt on Vuk Draskovic in Budva.

17. Minister of Defence Boris Tadic and head of the UN Development Programme in SaM Francis O'Donnell sign an agreement on civilian control and reform of the MoD. The agreement creates reform teams within the MoD and Armed Forces, whose task it is to build "institutional and human capacities though further training in civilian control of the armed forces and the public management of finances and means in the Army."

23. Milorad Bracanović, former deputy director of SIA, is released from detention.

August

11. The Ministerial Council of Serbia and Montenegro approves the participation of MoD personnel and the Armed Forces in peace operations and UN missions. The decision is adopted "in accordance with the determination of Serbia and Montenegro to participate in the enhancement of international peace and security. Serbia and Montenegro, as a full member of the UN, fully supports the concept of peace missions that are in accordance with the UN Charter. With its decision, the Ministerial Council has confirmed the readiness of the members of the Armed Forces, under the UN flag, to actively participate in the role of peace keepers in crisis-stricken areas of the world."

22. The SaM Ministerial Council adopts a decree on national service. The final text is drafted after consultations organised by the Ministry of Defence with the participation of prominent experts, representatives of civil society organisations, religious groups, other governmental bodies and the media. The *Decree on national service* gives conscientious objectors the right to carry out their national service obligations without the use of weapons. Serbia and Montenegro is consequently no longer in the "company of very few remaining states who did not recognise this right."

Decembar

26. The MoI of the Armed Forces of Serbia and Montenegro becomes subordinate to the MoD. The director of the MoI, Colonel Miomir Stjanovic, states that the MoI has been created in accordance with modern principles, is under civilian control and has counter-intelligence duties. The Military Police remains under the command of the General Staff of the Armed Forces of Serbia and Montenegro. The MoI has centres in Belgrade, Nis, Novi Sad, Kraljevo and Podgorica, and is also responsible for organised crime.

28. Parliamentary elections are held in Serbia.

29. In the parliamentary elections the SPS receive 81 seats, the DSS 53, the DS 37, G17+ 34, the SRM 23 and the SPS 22.

2004

March

3. The Serbian parliament elects a new government with Volislav Kostunica as prime minister.

6. The Serbian government removes both MoI director Misa Milicevic and his deputy Goran Zivaljevic. Rade Bulatovic (former security advisor to Volislav Kostunica, and former detainee during the 'Sabre' operation in April 2003) is appointed director.

April

17. The *Law on the change of law of the security services of FRY* is adopted. The number of members on the commission for the control of the security services is increased from eight to fourteen (nine from Serbia and five from Montenegro). To date, this commission has been inactive.

May

14. The Supreme Military Court returns General Aca Tomic, former chief of military intelligence to active service, having discharged him from the army on 29 March 2003. The Supreme Defence Council dismisses the director of the MoI, Colonel Momir Stojanovic, citing "un-authorised media appearance" in relation to his statement that the MoI was operationally present in Kosovo. The Supreme Defence Council also adopts the Strategy of Defence of SaM, and recommendations for the reorganisation of the MoD.

July

9. The Serbian Constitutional Court confirms that the state of emergency in Serbia in 2003 was in accordance with the constitution, but several actions are found to be unconstitutional and illegal. These include forced detention by the police for up to 30 days without court order, media and legal measures imposed by the defence attorney, and un-authorised tapping and surveillance carried out by the MoI without court orders.

October

13. The Serbian parliament adpots the *Resolution of accession to the EU*. The resolution states that Serbia's accession to the EU and the Partnership for Peace programme are strategic and national goals.

November

2. Parliament adopts the *Law on free access to information of public importance*.

3. The Supreme Defence Council adopts the bases of future organisation of the Armed Forces of Serbia and Montenegro. Responsibility for border security is transferred to the MoI.

18. The parliament of Serbia and Montenegro passes the *White book of defence* and the *Strategy of defence of the State Union of Serbia and Montenegro*. The documents specify the general direction of defence and security issues, basic security challenges, the need for transformation and modernization of the military, as well as the need for implementation of Euro-Atlantic integrations.

18. The parliament of Serbia and Montenegro passes the *Law on the transfer of authorities of the military courts to the civilian judiciary*. Civilian juridiaries take over all responsibilities from the Military Juridical system. Authority is transferred to the District Prosecutor's Offices in Belgrade, Nis, and Novi Sad. Military Defence Office cases are transferred to the Republic Public Defence Office.

December

22. Parliament passes the *Draft law on volunteer involvement of the professional members of the Armed Forces of Serbia and Montenegro in peace operations abroad*.

24. The *Law on the transfer of authorities of the military courts to the civilian judiciary* is adopted. Instead of abolishing military courts, special military departments are created within the District Courts in Belgrade, Novi Sad and Nis, whilst a Military Section is created in the Supreme Court of Serbia. Authority is given to the Public Prosecutor's Offices in Belgrade, Novi Sad and Nis, and pending cases in the Military Supreme Court are transferred to the Republic Public Defence Office. Military Judiciary, in accordance with the Law on Security Services, was permitted to use special methods by the former Military Intelligence Service (now the MoI).

2005

January

14. Lieutenant-General Dragan Paskas officially becomes chief of staff of the General Staff of the Army of Serbia and Montenegro, taking over from General-Colonel, Branko Krga, who retires along with eleven senior personnel.

February

23. SaM Defence Minister, Prvoslav Davinic and Serbian Minister of Interior Dragan Jocic, sign an agreement to transfer border control from the army to the police. The MoI estimates that the transfer process will last approximately two and half years, during which the army border units are to be disbanded. The first transfer of control is to take place on the Hungarian border.

April

5. The *White Book of the Defence of SaM* is promoted. This document confirms the intention towards Euro-Atlantic integration. The *White Book* states that it is in the interests of SaM to establish full institutional cooperation with NATO. Foreign policy priority is given to accession to the PfP programme.

8. Chief of Staff of the Armed Forces of Serbia and Montenegro, Lieutenant-general Dragan Paskas, unveils plans for the reorganisation of the Armed Forces, under which the General Staff will have four deputies and seven directorates. Paskas declares that full professionalisation of the army will occur by 2010.

7. EU High Commissioner, Xavier Solana and senior governmental officials

sign the *Agreement on the change of Constitutional Charter*, and with that act, the constitutional crisis was removed along with blockade of the work of the Parliament of SaM. This agreement also gave frame for continuation of the mandate of the MPs of the Parliament of SaM.

12. Following the positive findings of a feasibility study, Serbia and Montenegro receives a green light to begin negotiations for stabilisation and association to the EU. At a meeting of the European Commission Collegium held in Strasbourg, Oli Rehn, commissioner responsible for EU enlargement, comments that this represents the beginning of the process for Serbia and Montenegro.

June

17. The Serbian government adopts the *National strategy for accession to the EU*. The strategy reiterates the strategic determination of Serbia to join the EU and defines the roles of all actors in the accession process. It also clearly defines Serbia's obligations. Reform of the Armed Forces and new definitions of the parameters of security policies are priorities for the process of democratisation. The strategy also calls for decentralisation of the police. Terrorism, organised crime and drugs, human and arms trafficking are highlighted as security challenges facing the country.

July

18. SaM Minister for Foreign Affairs and NATO Secretary General sign an agreement between Serbia and NATO on transit arrangements for peace operations, in order to facilitate NATO logistical operations in the Western Balkans. The agreement allows NATO forces to pass on land, water and air without hindrance and provides for free access to telecommunication systems. NATO troops are made exempt from passport and visa regime regulations, and NATO staff carries diplomatic immunity status. Similar agreements exist with all member states of the PfP programme. On 4 November, the parliament of Serbia and Montenegro ratifies the agreement.

18. Milorad Ulemek is charged with first degree murder for the assassination of Zoran Djindjic and the attempted murder of Vuk Draskovic. His three accomplices each receive jail sentences of 40 years. Radomir Makovic receives a 15 year sentence. The judgements are passed down by presiding judge Dragoljub Albijanic of the Special Department of the Court,

September

1. Serbian Minister for Finance Mladjan Dinkic makes a public announcement about the 'Pancir' scandal, in connection to the procurement of military

equipment from Zrenjanin company 'Mile Dragic'. He publicly accuses Defence Minister Prvoslav Davinic of signing dubious contracts with the company. The Ministerial Council annuls all contracts with the company. The scandal is one of the main reasons for Davinic's resignation. Accusations of corruption against SaM president Svetozar Marovic cause friction between Serbia and Montenegro.

October

3. EU diplomatic chiefs approve the the beginning of negotiations for stabilisation and association of SaM starting with 'contractual relations' with the EU.

21. The SaM parliament elects retired general Zoran Stankovic as Defence Minister, following the resignation of Prvoslav Davinic on 9 September.

November

4. The SaM parliament ratifies an agreement with NATO. The agreement regulates the transit of NATO forces through SaM, and voids previous individual agreements (annex 1-A of the Dayton agreement, the arrangement of KFOR transit dated August 2001, the agreement over NATO access to airspace dated September 2002, and bilateral agreements with Belgium, Germany and USA). The status of stationary NATO forces in SaM is also regulated.

14. The Serbian parliament passes the *Law on the police* which introduce important organisational changes to the MoI. The law replaces the principle of citizen protection with that of all persons, including foreigners. In addition, the Minister of Interior is no longer the director of the police. This position is to be publicly advertised, limited to five-year terms and candidates are to be chosen according to their expertise. The law also abolishes the military style rank system and the police reserve, and introduces a new concept of auxiliary, voluntary police.

2006

January

12. The Serbian government forms the National Security Council, made up of representatives from all security-related state organs. The presidency rotates between the Prime Minister Vojislav Kostunica and President Boris Tadic. Tadic immediately challenges the rotating presidency because of concerns that the constitutional authority of the president is undermined. This appeal is rejected by the government, and the law comes into effect on 13 January.

26. A strategy of IBM is adopted in Serbia. This strategy allows for the establishment, maintenance and control of state borders; open for the free flow of people and goods but closed to all kinds of cross-border criminal activities.

March

16. The Supreme Defence Council adopts a doctrine of the Armed Forces of Serbia and Montenegro. The doctrine presents organisational changes in the direction of European integrations. Until full professionalisation, the Armed Forces are to consist of professional soldiers, conscripts and reserve units. The doctrine is implemented with the help of foreign experts in accordance with EU standards and regional integrations. It is decided that this doctrine will not be applied in Montenegro until after the results of the referendum there.

April

17. The Serbian parliament adopts the *Law on Amnesty* which pardons all persons who have been charged with refusal to use firearms, avoidance of national service and offences such as unauthorised absence or escape during national service between the period 7 October 2000 until the day the law comes into effect. The law affects 2500 people.

May

21. In Montenegro, 55.5 per cent vote in favour of independence in a referendum. Turnout is 86.3 per cent. The Independence Block celebrates the results which drop the curtain on the State Union of Serbia and Montenegro. The leader of the Social Democrats of Vojvodina, Nenad Canak, comments that the results are evidence that no one wishes to live in a union with Serbia.

June

2. Following Montenegro's independence, the Supreme Defence Council holds its last session which brings to an end the Armed Forces of Serbia and Montenegro. Command of the two armed forces is transferred to the presidents of both republics, in accordance with the Constitutional Charter.

3. The National Assembly of Montenegro formally approves the results of the referendum and adopts a declaration which officially announces the independence of the newest European state.

7. The Ministry of Defence adopts the *Strategic analysis of defence of the Republic of Serbia*, the most important document for the planning and implementation of defence reforms. It defines the needs and priorities of the devel-

opment of the Serbian Armed Forces up to 2010, and presents a vision for the functioning and restructuring of the Serbian Armed Forces by 2015.

15. The Serbian government recognises the independence of Montenegro, and offers all Montenegrin citizens living in Serbia the option to apply for Serbian citizenship. On the same day, the government recalls all members of the diplomatic core from the former State Union and appoints Milorad Veljovic for the Police Director.

September

7. President Boris Tadic and US State Secretary Condoleeza Rice sign the *Status of the forces agreement*. The agreement defines the legal status of US military forces (in relation to taxation, customs and criminal acts) and property which is temporarily on Serbian territory. This agreement also facilitates the planning and implementation of bilateral military activities, joint exercises and exchange of staff and expert visits.

30. With 242 votes in favour, parliament passes the new constitution. The following day, Parliamentary Speaker Predrag Markovic announces that a referendum will be held on 28 and 29 October.

October

28–29. The new constitution is supported by 3,521,724 voters (53.04 per cent) opposed to 97,497 (1.47 per cent) against. A late surge in turnout on the referendum day contributes to the results in favour.

November

8. At the House of Guards in Topcider, Defence Minister Zoran Stankovic and the Deputy Commander of the European Command of US Armed Forces, General William Ward signs an agreement on procurement and mutual services. The agreement is intended to ease mutual bilateral cooperation between Serbia and the US, particularly during peace missions.

29. During a NATO summit in Riga, Serbia is invited to join the PfP programme.

December

14. At NATO headquaters in Brussels Serbia's membership of the PfP programme is formally signed by President Boris Tadic.

18. Defence Minister Zoran Stankovic and NATO Deputy General Secretary Alesandro Minuti-Rico open a NATO Military Office for liaison purposes in Bel-

grade. The office is designed to establish connections between NATO and military and state leaders, in order to facilitate the transit of troops (signed on 18 July 2005), to assist *Group Serbia-NATO* defence reform, to enable better co-operation between NATO and Serbia within the PfP programme and also for providing support of the activities of public diplomacy of NATO in the region. The office is located in the Defence Ministry, with a staff comprising nine military staff from NATO and local staff from Serbia. Brigadier-General of the French Army, Yannick Asset, becomes head.

18. Minister for Foreign Affairs, Vuk Draskovic, announces the regulation of the opening of secret files kept on employees since 1945 by the security sector of the Ministry of Foreign Affairs.

2007

January

21. Following parliamentary elections, the SRS receives the largest number of seats with 81, followed by the DS with 64. The DSS-NS receive 47, G17 Plus 19, the SPS 16 and the LDP – 15 seats.

February

1. Protection and control of state borders officially comes under the authority of the police, completing the process of demilitarisation of the state borders, which has taken a year and a half. This is marked by a symbolic exchange of charters between Defence Minister Zoran Stankovic and Minister of Interior Dragan Jocic. Demilitarisation of the state borders and the formation of border police are important milestones on the road towards European Union membership.

May

15. Parliament elects a new government, led by Vojislav Kostunica as prime minister, just half an hour before the constitutional deadline for forming a government.

23. Former deputy commander of the Special Operations Unit (SOU), Zvezdan Jovanovic and former commander Milorad 'Legija' Ulemek are found guilty for the murder of Zoran Djindjic and sentenced to forty years of prison. The Special Court also finds twelve members of the SOU guilty. Zeljko Tojaga is given a thirty years prison sentence and Sasa Pejakovic eight years. Branislav Berzarevic, employee of the SIA, receives a thirty year sentence.

September

5. Minister for Foreign Affairs Vuk Jeremic hands a document concerning the aims of Serbia in the PfP programme to NATO headquarters. The document does not specify whether Serbia will become a member of NATO. Each state when joining the PfP programme delivers this kind of document, in which it identifies its intentions while fulfilling its goals of the PfP.

2008

February

3. Boris Tadić is re-elected president, beating Tomislav Nikolic of the SRS by more than 100,000 votes (2 per cent) in the second round of the presidential elections. Although Tadic's second term as president, it is his first under the new constitution.

May

17. The parliament of Kosovo passes a declaration of independence. The authorities in Serbia officially refuse to recognise the declaration. The next day Afghanistan, USA, France, Albania, Turkey, the United Kingdom and Senegal recogniae Kosovo as an independent state.

April

29. Despite opposition from the Prime Minister Vojislav Kostunica,, Vice President of the Government Bozidar Djelic, signs a stabilisation and association agreement with the EU, and as well as an interim trade agreement.

May

11. During parliamentary elections, Boris Tadic's coalition *For a European Serbia* receives 102 seats (1,590,200 votes). The SRS receives 70 seats (1,219,436 votes). The DSS group *New Serbia* receive 30 seats (480,987 votes), and the SPS-PUPS-JS coalition 20 seats (313,896 votes). The LDP secures thirteen seats, the Hungarian coalition two, and the coalition of Albanians of Presevo valley one.

July

7. The Serbian government is elected. It comprises a coalition of *For a European Serbia,* the Socialist Party of Serbia (SPS) the Party of United Pensioners

of Serbia (PUPS), United Serbia (JS) and parties representing ethnic minorities.

17. The government appoints Sasa Vukadinovic as Director of SIA.

September

18. The first Vice President of the Government, the Deputy of the President and Minister of Interior Ivica Dacic, and the director of Interpol sign the agreement on strategic cooperation between the Serbian government and the European police office. The agreement presents a legal framework for the enhancement of cooperation with Europol in the fight against organised crime, terrorism, human trafficking, illegal migration and other serious forms of cross-border criminal activities.

October

1. Serbian Defence Minister Dragan Sutanovac, signs an agreement on security of information with NATO, which regulates the security, dissemination and exchange of confidential data. The agreement is signed by Minister Sutanovac and NATO Secretary General Jaap de Hoop Scheffer in Brussels. The agreements are similar to those signed by other states and international organisations. Minister Sutanovac also announces that Belgrade will initiate the process of opening a NATO office.

23. Parliament passes three laws on police reform; the *Law on protection of the state border*, the *Law on protection of personal data* and the *Law on the requisition of property gained by criminal activity*.

December

11. After a public debate which lasted from the end of August until the end of September 2007, parliament passes a new law on defence and a law on the Armed Forces.

26. Following calls from civil society organisations, (including CCMR), the Ministry of Defence extends the period for public debate on the drafts on the defence strategy and the strategy for national security. The Ministry extends the debate for fourteen days.

30. Chief of Staff Lieutenant-General Zdravko Ponos is relieved of duty by President Boris Tadic, thus ending the dispute between Ponos and Defence Minister Sutanovac, which was accompanied by numerous public exchanges and accusations. The Lieutenant-General accused the Ministry of lacking a defence policy and having inadequate reforms of the defence system. Minister Sutanovac had criticised the chief of staff for failing to respect the principle of subordination and civil control of the military.

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3. Research Team

The Research Team

Miroslav Hadžić is President of the Executive Board of CCMR. He graduated from the Air Force Military Academy in Zadar in 1966. Mr Hadzic also graduated from the Faculty of Political Science in Belgrade in 1973. He took his M.A. in 1979 and Ph.D. in 1983 at the Faculty of Political Science. During 1972-1973 he worked as a research associate at the Army Centre for Andragogic, Psychological and Sociological Research in Belgrade. He has spent most of his career as a lecturer at the Higher Military Political School of Yugoslav Armed Forces (1972-1994). From 1992 to 1994 he was an Associate Professor of Military Sociology at the Military Academy in Belgrade. In January 1994 he was discharged from the YAF as a colonel, at his own request. During the next five years he worked in the Department for Sociological Research at the Institute of Social Sciences in Belgrade. Since 2002, he has been a professor of Global and National Security and International Security at the Faculty of Political Science in Belgrade. Mr Hadzic is the author of numerous books and articles.

Milorad Timotić is a founding member of CCMR and Vice-President of the Executive Board of CCMR. Mr Timotic was born in 1935. He graduated from the Military Academy in 1957 and the Faculty of Political Science in 1965, where he also took his M.A. degree. He also graduated from the Royal College of Defence Studies in London in 1985. Mr Timotic served in the Yugoslav Armed Forces and worked at the Federal Secretariat for National Defence. He retired in 1992 while working at the centre for Strategic Studies of Armed Forces. Since 1997 he has actively participated in all projects and activities carried out by CCMR.

Bogoljub Milosavljević graduated from the Faculty of Law in Belgrade in 1976, where he also took his M.A. degree in 1981 and PhD in International Law in 1983. He worked in several government institutions, including the Federal Ministry of Justice where he was an advisor to the minister. From 1994 to 1999 he worked as an assistant professor and associate professor at the Police Academy in Belgrade. Since 2003 he has taught at the Faculty of Law at Union University in Belgrade, and, since 2004 he has taught M.A. courses in International Security at the Faculty of Political Science in Belgrade. He has authored numerous books and articles.

Đorđe Vuković graduated from the Faculty of Political Science in Belgrade in 1999. He took his M.A. degree in Political Sociology at the same faculty in 2004. For many years he has worked for CESID as a project coordinator and programme director and is currently director. He was also an assistant lecturer for

the subjects Political Sociology and Political Sociology of the Contemporary Society at the Faculty of Political Science in Belgrade.

Filip Ejdus was born in 1979. He received his B.A. in International Studies at the Faculty of Political Science in Belgrade and two M.Sc. degrees, one at the Institute for Political Studies in Paris in 2005 and the other at the London School of Economics (LSE) in 2006. During 2006–2009 he was Executive Director of CCMR and a Research Fellow in the Belgrade School of Security Studies. Mr Ejdus is currently working as an assistant at the Faculty of Political Science in Belgrade, teaching Global and National Security and International Security. His special interests are international security, the Middle East, the EU and theories of international politics.

Sonja Stojanović was born in 1978. She received her B.A. in Japanese Language and Literature at the Faculty of Philology in Belgrade and her M.A. in Politics, Security and Integration at the School of Slavonic and East European Studies, University College London. During 2002-2005 she was Project Assistant at the Strategic Development Unit, Law Enforcement Department at the OSCE Mission to Serbia and Montenegro. Since 2006 she has worked as Director of CCMR and as a Research Fellow at the Belgrade School of Security Studies. Her special interests are police reform, comparative politics, enlargement and security in the EU, public and political debate, and conflict resolution.

Zorana Atanasović was born in 1976. She took her B.A. in Psychology at the Faculty of Philosophy in Belgrade and completed post-graduate specialisation in National and Global Security at the Faculty of Political Science. She is currently working on her M.A. in Global and National Security at the same faculty. During 2004-2006 she was an associate at CCMR and since 2006 she has been a researcher at the Belgrade School of Security Studies. Her special interests are social research, public opinion on the security issues and political parties.

Marko Milošević was born in 1977. He took his B.A. in sociology at the Faculty of Philosophy in Belgrade and completed his M.A. degree in Sociology at the same faculty in 2009. Since 2006 he has been a researcher at the Belgrade School of Security Studies. His special interests are social development and security.

Jelena Petrović was born in 1982. She gained a B.A. in International Studies at the Faculty of Political Science in Belgrade, where she also received her M.A. in the same field. She is currently working on her PhD thesis 'The Effectiveness of NATO Conditioning in the West Balkans', at the Department of Conflict Studies, King's College, London. During 2006-2007 she was a research fellow at the Belgrade School of Security Studies.

Predrag Petrović was born in 1976. He graduated from the Faculty of Political Science in Belgrade and is currently working on his M.A. in Political Sociology at the same faculty. Since 2006 he has been a research fellow in the Belgrade School of Security Studies. His interests are anti-corruption, security-intelligence services and privatisation of security.

Đorđe Popović was born in 1978. He graduated from the Faculty of Law in Belgrade and took his M.A. at the Peace Studies Institute in Hamburg. Since 2006 he has been a research fellow at the Belgrade School of Security Studies. His special interest is security sector reform.

Jelena Radoman was born in 1981. She has a B.A. in International Studies from the Faculty of Political Science in Belgrade. She finished her M.A. studies in 'Policy, Security and Integration' at the School of Slavonic and East European Studies, University College London. Since 2006 he has been a research fellow at the Belgrade School of Security Studies. Her special interests are the security profile of South-East Europe and the West Balkans and security sector reform.

Marko Savković was born in 1980. He took his B.A. in International Studies at the Faculty of Political Science in Belgrade. He is currently working on his M.A. degree in European Studies at the same faculty. His special interests are social development and security.

Jelena Unijat was born in 1976. She took her B.A. in Law at the Faculty of Law in Belgrade and is currently working on her M.A. degree in Criminology at the same faculty. During 2006-2008 she was a research fellow at the Belgrade School of Security Studies. She is working in the Office of the Ombudsperson

Internship

Ivan Dimitrijević graduated from the Faculty of Security in Belgrade. He is currently working on his M.A. degree in International Security at the Faculty of Political Science in Belgrade. Mr Dimitrijevic has written several articles and reviews for *Human Safety* and *The Security* magazines.

Miljana Golubović has a B.A. in International Studies from the Faculty of Political Science in Belgrade where she is currently taking a post-graduate course in European Studies. She is employed in the Ministry of Trade in the International Cooperation Sector, Department of European Integrations.

Nikola Živković is a student of International Studies at the Faculty of Political Science in Belgrade. Since 2006 he has been a research fellow at the Centre for European Integrations in the Belgrade Open School.

Biljana Đorđević is currently an M.A. student of 'Political Analytics and Management' at the Faculty of Political Science in Belgrade. She is also a teaching assistant for Contemporary Political Theories. Her special interests are political theory, migrations and security studies.

About the Centre

The *Centre for Civil-Military Relations* is a non-profit organisation of citizens founded in Belgrade in 1997 with an overall aim of supporting the democratisation of Serbia and advocating a radical reform of its security sector. The focal point of research and public activities of the Centre is the dynamics and scope of the reform, primarily of the state actors of force, as well as the problems related to putting these actors under democratic civilian control and public control and oversight. An important segment of the Centre's activities is focused on the research and public advocacy of the need and prospects for Serbia's inclusion in the regional and global security cooperation and integrations. The Centre has thirteen full-time employees and a large number of associates working on various projects.

The *Belgrade School of Security Studies (BSSS)* is a research unit of the CCMR. It was founded in January 2006 with an overall aim of promoting systematic research in the field of security and providing academic advancement for young researchers, in order to foster the further development of security studies in Serbia. With these goals in mind, the Centre and the Norwegian Institute of International Relations (NUPI) from Oslo jointly started a six-week academic training for BSSS researchers in NUPI in 2008, which will place place throughout 2009. Ten young researchers are working on various research and educational projects in the School. In addition, they participate in all public advocacy activities organised by the Centre. From the very onset the School has been financially supported by the Government of Norway and the Balkan Trust for Democracy (BTD).

The Centre has considerable experience in various academic research projects, as well as in alternative education and public advocacy. This has made the Centre one of the leading independent research organisations in the field of security, particularly in the research of the security sector reform in Serbia and the Western Balkan region.

This fact is supported by research carried out by the Centre: *Researching and raising the level of the security culture among the youth (2008-2009); Mapping and monitoring security sector reform in Serbia (2007-2009); Lessons Learned: The security sector reform and Euro-Atlantic integration of Slovakia and Serbia (2007-2008); Private security companies in Serbia – friend or foe? (2007-2008), The Serbian and Montenegrin Armed Forces and the Serbian Orthodox Church – the search for a new identity (2005-2009); Public opinion and the media on the Serbian and Montenegrin Armed Forces (2003-2005); The violent dissolution of Yugoslavia: Causes, dynamics and effects* (2004)*; Protection of human rights in the Armed Forces and the police of FRY* (2003); *Normative prerequisites for the civilian control of the Yugoslav Armed Forces* (2001).

The Centre is currently working with the Geneva Centre for the Democratic Control of Armed Forces on a project entitled *Raising the Capacity of the Civil Society Organisations for Measuring and Monitoring the Security Sector Reform in the Western Balkans 2009-2010*. The aim of the project is to contribute to the raising of the capacity of civil society organisations in the states of the Western Balkans for an effective control and oversight of the local security sectors' reform trends as well as the processes of the security cooperation in the region. The partners in the project are: The Institute of International Relations in Zagreb, The Centre for Security Studies in Sarajevo, The Centre for Democracy and Human Rights in Podgorica, Analytica from Skopje, The Institute of Democracy and Mediation in Tirana and The Kosovo Centre for Security Studies in Pristina. As a result, a regional network of specialised civil society organisations has been established which should contribute to the raising of transparency of the security sector reform process in the countries of the region.

The Centre's experts and associates have devised the models for several laws in the field of security: the Model Law on Civilian Service, the Model Law on the Provision of Private Security-Related Activity, the Model Law on the Method of Determining and Handling Classified Information of Relevance to National Defence and the Model Law on the Supreme Defence Council.

With regard to this, the Centre initiated a public debate on the necessity and importance of the overall and harmonious legal regulation of the national security system in Serbia. In addition, and upon request of the competent committee in the former Assembly of Serbia and Montenegro, the Centre prepared a Draft Law on the democratic and civilian control of the military. Its experts also participated in drafting the Law on Security Services in SaM. Before that, they were a part of the team which worked on the Law on Security Services in FRY, adopted in July 2002. In September 2007, the Centre organised a public debate on the Draft Law on Defence and the Draft Law on the Armed Forces , while in January 2009 the Centre organised also a public debate on the draft versions of the National Security Strategy and Defence Strategy of the Republic of Serbia

Various educational and informative programmes intended for the civil society activists, national deputies, Serbian security sector employees and members of academic community have formed a significant part of the activities carried out by the Centre so far. More than 1800 participants have taken part in these programmes. The Centre, in cooperation with the Faculty of Political Science, successfully organised and carried out two one-year post-graduate specialist courses in national and global security studies (2004/05; 2005/06). During 2006-2007, Master Studies in National and Global Security were for the first time organised at the same faculty, and the Master Studies in International Security were later introduced later. Currently the second generation of M.A. students is attending these courses. Thanks to the support of donors, the Centre is able to provide for each generation at least 20 scholarships which are used mostly for training of the employees of public administration and its actors using force

(MoD, Ministry of Interior, security-intelligence agencies and the National Parliament), as well as representatives from acadeMoI, the media and civil society organisations. In order to increase the number of civilian researchers of the security sector, the Centre initiated the internship programme for national and foreign students in 2007. Twenty-seven local and six foreign interns have taken part in this programme so far. The rationale is to encourage a more active participation of acadeMoI and civil society in the processes of the security sector reform in Serbia, in the region and in Europe.

During 2007-2008 the Centre carried out its first interactive project *Video Questions of Citizens: Starting a Debate on Serbia's Strategic Orientation,* which was initiated to mark the anniversary of Serbia's accession to the Partnership for Peace. A documentary entitled *Should Serbia Be Military Neutral?* was made as a part of the project, in which the representatives of the MoD, acadeMoI and security policy experts answered questions asked by citizens, such as those related to the price of Serbia's military neutrality or Serbia's strategic orientation. In the same period another project was initiated, *Increasing Citizens' Participation in the Security Policy,* aimed at increasing the participation of civil society and citizens in the decision-making processes related to the security policy at the local and national levels. This resulted in establishment of the Network of National and Local Non-Governmental Organisations and Experts in Security Issues, comprised of 44 civil society organisations from Serbia. The Network functions as a group for public pressure aimed at speeding up the pace of the local security sector reform and the strengthening of the civilian democratic control.

Through the project *Business and Security – The economic dimension of Serbia's membership in the PfP and possible integration into NATO (2008),* the Centre initiated one of first public debates on the interconectedness of the economy, stability and security. The international conference, entitled 'Business and Security', was organised in November 2008 and the topics covered included: theoretical and methodological problems of calculating the price of security, the price of the proclaimed military neutrality of Serbia, as well as economic and social cost and profit of its possible integration into NATO. The conference participants included representatives of government institutions, civil society and Serbian acadeMoI, as well as a number of guests from the countries of the Western Balkans and Central and East Europe.

The Centre also dealt with issues of the protection of human rights of the state actors who use force and the citizens when they are directly affected by their competencies. For this purpose, the Center organised legal counselling in the period 2005-2008. Top legal experts provided legal advice in the Centre's premises in Belgrade. In addition, several counselling sessions were organised in other cities throughout Serbia. After the completion of the project, the Centre published the brochure *Free Legal Counselling for Active and Retired Members of Armed Forces and the Police*.

With the aim of increasing and disseminating modern insights and knowl-

edge in the field of security studies, the Centre published numerous original publications and analyses which were the result of its research, educational and public advocacy activities. Most publications and analyses are available at the Centre's website *www.ccmr-bg.org*, where they can be downloaded free of charge. Thirty-eight publications – books, manuals, glossaries, bulletins – have been published so far, the majority of which has been translated into English and some into Hungarian and Albanian.

Since 2006 the Centre has been publishing regularly the professional magazine *Western Balkans Security Observer.* Eleven issues have come out so far, available both in Serbian and English on the Centre's website. 300 copies of the magazine are published in Serbian and 300 in English, while the total number of on-line subscribers has reached 2,000.

With the edition *Belgrade Security Studies* in 2007, the Centre started publishing translations of works of eminent foreign authors in the field. The first translation in the edition was Kenneth Waltz's book *The Theory of International Politics* (1979), which laid a foundation for the contemporary academic discussion in the field of international relations and security. Robert Kagan's *The Return of History and the End of Dreams* will be published in the same edition during 2009.

The CCMR's library is the first academic library in Serbia specialised for security studies. The library is registered at the National Library of Serbia and all publications are available through the COBISS system (a unified regional system of library networks comprising over 500 libraries). The library currently has over 1,800 titles and specialised local and foreign magazines. The Centre is a member and the initiator of several national and regional networks of civil society organisations. It is a member of the Federation of the Non-Governmental Organisations, member of the network of partner non-governmental organisations of the Office of the Government of Serbia for EU Accession and of the Information Forum of the Security Sector. The Centre's representative is also a member of the DCAF International Advisory Board. The centre also signed the memoranda on mutual understanding, and thus formalised cooperation, with the Serbian Ministry of Defence, The Government Office for the EU Accession, The Institute of Comparative Law, the National Institute of Democracy, The Association for Euro-Atlantic Cooperation *Jagello 2000* from the Czech Republic, The Centre for European and North-Atlantic Affairs from Slovakia, the Centre for Democracy and Human Rights (CEDEM) from Montenegro, the Centre for Security Cooperation (RACVIAC), The Institute of International Relations from Croatia, The Centre for Security Studies from BiH, Analytica from Macedonia and the Institute for Democracy and Mediation from Albania. The Centre also signed 13 memoranda on the exchange of magazines and other publications with relevant academic magazines from Serbia, Slovenia, Romania and Turkey.

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Yearbook of Security Sector Reform in Serbia is the first publication in Serbia that in one place represents whole security sector in Serbia, its scope and paste of its reform. In order to present progress of security sector reform to our readers, conditions that existed prior to democratic changes in October 2000 were presented in the first place, followed by basic overview of main political conditions, activities, actors, along with their inter-relations that continued to influence scope and paste of security sector reform in Serbia. Upon completion of mapping of the security sector, we started measuring the scope of reforms. We tried to numerically express to what extent security sector has been reformed using specially developed methodology. This, in turn, will give our readers a chance to find grades for reform of specific security sector actors (police, military, security services…) and for reform of whole security sector.

The book in front of you is a product of two years long research conducted by researchers and associates of Centre for Civil-Military Relations. It consists of collected and presented data and results gathered during realization of project "Mapping and Monitoring of Security Sector Reform in Serbia". This book is designed for all those interested in theory and practice of security sector reform. It is useful especially for students of national and international security studies, as well as for security sector professionals in Serbia that aim to perfect their knowledge on scope and progress of security sector reform in Serbia.

Furthermore, this is the first conceptually all encompassing, grounded in theory and methodologically systematized research of its kind which analyses condition and evaluated progress achieved in process of security sector reform in Serbia.

Belgrade Centre
for Security Policy